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PREFACE TO THE ELEVENTH EDITION

We have great pleasure in presenting the Eleventh Edition of Careers' *Indian Constitution*. It is concise, comprehensive and dependable.

The Constitution of a country is not a static document, it keeps on changing according to the requirements of the times. These changes are effected either through amendments of the Constitution or through constitutional conventions. The Constitution of India has also gone through many changes since it came into force on January 26, 1950. The pace of these amendments has been particularly very fast during the last few years when the Constitution was changed and rechanged a number of times. These changes have taken place in such quick succession that it is very difficult for the candidates to keep a track of these changes. This book has been written primarily with a view to provide a handy reference manual on Constitution as it stands today and as it has been at work all these years.

The present edition of the book has been thoroughly revised and recast. All the latest amendments to the Constitution have been incorporated. No effort has been spared to make the book as useful as possible. This book is, therefore, expected to serve the requirements of students preparing for various competitive examinations. Suitable headings have been given throughout the book to facilitate the study of various subjects. A special feature of this edition is the inclusion of **objective-type questions** asked in various competitive examinations in recent years.

We shall feel grateful to the readers if they send us their valuable comments/suggestions to enable us to make further improvements in the book.

-Publishers

LATEST AMENDMENTS

(1) **Sixty-ninth Amendment (1991):** It provides for a 70-member Assembly and 7-member Council of Ministers for Delhi.

(2) **Seventieth Amendment (1992) :** It enables the elected members of Pondicherry and Delhi to participate in the Presidential election

(3) **Seventy-first Amendment (1992) :** It provides for the inclusion of Konkani, Manipuri and Nepali in the 8th Schedule of the Constitution

(4) **Seventy-second Amendment (1992) :** It provides for

- (i) constitution of three-tier Panchayats at the villages and other levels ,
- (ii) constitution of Gram Sabhas in villages ;
- (iii) direct election to all seats in Panchayats ,
- (iv) reservation of seats for Scheduled Castes and Scheduled Tribes ,
- (v) reservation of one-third of the total seats at every level of the Panchayati Raj Institutions for women ;
- (vi) fixing of tenure of five years for Panchayats , and
- (vii) giving representation to the Members of Parliament, MLA's and MLC's at the intermediate and district level Panchayati Raj with full voting rights.

(5) **Seventy-third Amendment (1992) :** It provides for

- (i) constitution of three types of municipalities ,
- (ii) reservation of seats in every municipality for Scheduled Castes, Scheduled Tribes, women and backward classes,
- (iii) devolution of powers and responsibilities upon the municipalities with respect to the preparation of plans for economic development, levy of taxes and duties, and review of finances of the municipalities , and
- (iv) conducting of elections to the local bodies by an independent State Election Commission.

(6) **Constitution Seventy-seventh Amendment (1993):** It provides for the establishment of State-level Tribunal to settle landlord-tenant cases. It also provides for the reduction of tiers of all courts, except Supreme Court in the case of rent litigation.

(7) **Constitution Eighty-fifth Amendment (1994) :** It provides for Tamil Nadu legislation on 69% reservation for Backward Classes, Scheduled Castes and Scheduled Tribes in the Ninth Schedule of the Constitution. Thus, it takes the matter out of the ambit of judicial review

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INDIAN CONSTITUTION

1

Introductory

1. THE BACKGROUND

Brief History

The origin and growth of the Indian Constitution has its roots in Indian history during the British rule. The British came to India in the seventeenth century as traders. By the force of circumstances they continued to rule India till August 15, 1947. Up to 1858, the purpose of the administrative machinery was to govern British India as a police state for the English and the question of consultation with or co-operation of the people of India did not arise. It was only after 1858 that it was decided to ascertain and understand feelings of the people of India so as to make governance of the country more effective. For the first time in 1909, communal representation for the Muslims was introduced. It was enlarged further under the Government of India Acts of 1919 and 1935. The continuance of this practice for about 30 years along with forces generated by it ultimately resulted in the partition of the country. Following powerful political agitation, the Government of India Act 1935 was passed on August 2, 1935, which provided for a federal polity for the whole of India. The constitution embodied in the Act was meant to attain certain definite objectives *i.e.*, to grant the people of India responsibility which was difficult to withhold, keeping in view the political situation. However, it was the intention of the British to continue to exercise the overall control and supervision over the governance of the country and also to maintain their hold over the princes. These reforms were not considered adequate by the Indian leaders. They, therefore, demanded complete independence. This movement got impetus because of the Second World War. On March 15, 1946, the British Parliament recognised India's claim for independence and the right to frame its own Constitution. A Cabinet Mission was, therefore, sent to India. On May 16, 1946, the British Parliament conceded India's demand to set up a Constituent Assembly, which was to draft its own Constitution.

A 389-member Constituent Assembly representing all the provinces and Indian States came into being. Its meeting in December 1946 was not attended by the members of the Muslim League. They demanded partition of the country. In February 1947, Mr. Clement Attlee, the British Prime Minister, announced in the House of Commons that His Majesty's Government had finally decided to transfer the power to the people of India at the earliest.

This decision culminated in the passing of the Indian Independence Act, 1947 by the British Parliament. The country was partitioned into the Dominions of India and Pakistan. The Constituent Assembly was also divided. The members who represented the areas included in Pakistan formed the Constituent Assembly for Pakistan and the residual members formed the Constituent Assembly for India. It became a statutory sovereign body. It got plenary powers to frame the Constitution suited to the genius of the people of India.

What is Constitution ?

A Constitution is a fundamental law or instrument of government. There is a difference between 'Constitution' and 'law'. Ordinarily, a 'Constitution' signifies a politico-legal document and 'law' signifies a statute or a legislative enactment. A 'Constitution' prescribes the paramount norm or norms while a law prescribes derivative norms.

Sources of Indian Constitution

The aim of the Indian Constitution-makers was not to draft an original and unparalleled constitution but a good and practical constitution suited to the needs of India. Hence, they studied the constitutions of several democratic countries and took whatever material they could find useful in any constitution.

They specially studied the Constitutions of Great Britain, U.S.A., Canada, Ireland and Australia. All the constitutional provisions regarding the parliamentary form of government have been adopted from Great Britain. The reason for doing so was that due to long and close relationship with the British, the Indians had got accustomed to the British parliamentary form of Government. In Britain, the parliamentary form of government is based on conventions. But in India the conventions have been given a written form. The President of India has been made the constitutional head of the state like the British crown. The Indian Cabinet and the Prime Minister correspond to British Cabinet and British Prime Minister. The Indian House of People (Lok Sabha) corresponds to the British House of Commons. The Council of States of India (Rajya Sabha) corresponds to the British House of Lords.

The Constitution of Canada has also influenced the Constitution of India and the 'Indian Federation' has been called a 'Union of States'. The Indian federation has also been formed on the

Canadian model. In both the federations, the centre is strong and the residuary powers are vested in the centre

The concurrent list of the Indian Constitution has been adopted from the Constitution of Australia. Such a list was also included in the Government of India Act, 1935. The directive principles of state policy in the Indian Constitution are from the constitution of Ireland. Similarly, the use of electoral college in the election of the President, nomination of men having experience in science or some fine arts to the Rajya Sabha, have been borrowed from the Constitution of Ireland.

The organisation of Supreme Court, powers of the President, position and duties of Vice-President and the constitutional amendment procedure have been influenced to a great extent by the American Constitution. The Preamble to the Constitution of India has been framed on the model of the American declaration of independence. Like the Supreme Court in the U S A, the Supreme Court of India has also been entrusted with the task of interpretation of the Constitution. Although India has not adopted the principle of double citizenship like that of U S A, yet the independence of the judges, their dismissal, tenure etc, have been based on the American model.

Basic Structure of Indian Constitution

The basic structure of the Constitution of India comprises those features of the constitution which cannot be drastically changed without pulling down the edifice of the present Indian polity. These are : (i) sovereign democratic republic, (ii) limited amending power of the Parliament, (iii) the balance and harmony between fundamental rights and directive principles etc. (I A S, Main 1979)

2. NATURE OF INDIAN CONSTITUTION

The Constitution of India provides for a Federal system of Government, though the term 'federation' has nowhere been used in the Constitution. On the other hand, Article 1 of the Constitution describes India as 'Union of States', an expression which implies two things. Firstly, unlike U S A, the Indian Federation is not the result of the agreement between the units and the units have no right to secede from the Federation. In fact, the units of the "Indian Federation" have no independent existence of their own. The Parliament can alter their names and territories without their consent. Broadly speaking, there are two methods for the formation of a Federation. First, the hitherto independent and sovereign states may form a Federation by a voluntary agreement. Prof K C Wheare says, "Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features."

For resolving the controversy regarding the true nature of the Indian Federal System, it is desirable to understand as to what is

implied by a federal system, what are its special features and how far these features are present in India. According to Prof Garner, "Federalism is a system of Government in which all the administrative powers are divided between the Central and the State Governments by the Constitution, and both are supreme within their respective spheres. The State Governments are not agents of the Central Government nor do they draw their authority from it. On the other hand, both the Central and State Governments draw their authority from the Constitution"

Federal Features of the Constitution

(I.A.S. Main, 1982)

The main federal features of the Indian Constitution are as follows :

(1) **Written Constitution** : The first essential feature of a federal system is a written Constitution which defines the structure, organisation and powers of the Central as well as State Governments so that the two operate within their respective spheres without interfering with each other's jurisdiction. The Indian Constitution is a written document containing 395 Articles and 10 Schedules. It stands at the top of hierarchy of all laws and all the authorities in India are legally bound to respect it. The Constitution is also one of the lengthiest documents in comparison to the Constitutions of other federations.

(2) **Rigid Constitution** Another essential feature of our federation is a rigid Constitution which can be amended either by the joint action of the Federal and State Legislatures or by an independent authority. The Indian Constitution is rigid to a large extent. Those provisions of the Constitution, which concern the relations between the Federal and State Governments as well as the judicial organisation of the country, can be amended only by joint action of the Federal and State Governments. These provisions not only require two-thirds majority of the two Houses of Parliament but also approval by a majority of State Legislatures (Atleast half of the number of States).

(3) **Independent Judiciary** The existence of an important judiciary is another important feature of the Indian Federal system. The Supreme Court of India, which is the highest court in India, acts as the guardian of the Constitution and can declare any law or order *ultra vires* if it contravenes any provision of the Constitution. The Supreme Court also ensures that the Federal and the State Governments operate within the spheres allotted to them by the Constitution (But it can do so only if a case is brought before it).

(4) **Division of Powers** Another feature of a federation is statutory division of powers between the Federal Government and the State Governments. In contrast to a unitary state, where the States draw all the powers from the Centre, which reserves the right to withdraw them at discretion, the Federal Government as well as the States draw their authority from the Constitution.

However, the procedure for the division of powers between the Centre and the State is not the same everywhere. For example, in U.S.A., the Constitution enumerates the powers of the Centre and leaves the residuary powers to the States. On the other hand, in Canada the Constitution contains two lists—one for the States and the other for the Centre. The residuary powers are also left in the hands of the Centre. The Indian Constitution divides the powers on the pattern of the Canadian Constitution. All the powers have been divided into three lists—the Union list, the State list and the Concurrent list. The Union list contains ninety-seven items of national importance such as foreign affairs, defence, inter-state trade, coinage and currency, etc. The Federal Government has exclusive power to make laws on these subjects. The State list contains sixty-six items like public order, police, administration of justice, prisons, public health, etc., over which the States possess exclusive power to legislate. The Concurrent list, which has forty-seven items, contains items like marriage and divorce, books and printing presses, etc. Both the Federal Government and the State Governments possess right to legislate on the subjects contained in the Concurrent list. However, in case of clash between the Central and State laws, the former prevails. The residuary powers have been vested by the Constitution in the Central Government.

(5) Bicameral Legislature : Like other Federations, the Constitution of India also provides for a bicameral Parliament consisting of the Lok Sabha and the Rajya Sabha. While the Lok Sabha comprises representatives directly elected by the people on the basis of universal adult franchise, the Rajya Sabha mainly comprises representatives of the units.

(6) Supremacy of the Constitution The supremacy of the Constitution, another feature of federalism, is also present in India. The Constitution of India stands at the top of the hierarchy of all laws both national and state. The Central as well as the State Governments have to operate within the limits prescribed by the Constitution. If they pass any law which does not conform to the Constitution, the same can be declared as *ultra vires* by the Supreme Court of India.

Non-federal or Unitary Features

In addition to the above federal features, the Constitution contains certain non-federal or unitary features which have led the critics of the Indian Constitution to challenge its federal character and charge that it is merely federal in form but unitary in spirit. At the outset it has to be admitted that the framers of the Indian Constitution have deviated from the traditional federal system and incorporated a number of unitary features.

Some of the important unitary features of our Constitution are as under :

(1) A Strong Centre In the first instance the Constitution provides for a very strong Centre, a feature of unitary government. In the division of powers, 97 items have been included in the Union list, while the State list contains only 66 items. Further, even on the subjects contained in the Concurrent list (47 items), both the Centre and the States have power to legislate, but the Central Government enjoys an over-riding position. The residuary powers have also been vested in the Centre. In short, the Constitution provides for a very strong Centre. But if we keep the conditions prevailing in the country at the time of the enactment of the Constitution in mind, we will tend to endorse the wisdom of the framers of the Constitution in making the Centre strong.

(2) A Single Constitution for Union and States Unlike other Federations of the world, the States in India have not been given any right to make or unmake their own Constitution. The framers provided a single common, unified Constitution both for the Centre and the States. It has rightly been said that "the Constitution of the Union and the States is a single frame from which neither can get out and within which they must work". Further, the States have not been given any power to initiate amendments to the Constitution, a power which exclusively vests in the Indian Parliament. This has enhanced the power and prestige of the Centre at the cost of the States.

(3) Flexibility of the Constitution : In comparison to the other Federations, the Constitution of India is rather flexible. In other federations amendments to the Constitution can be made only with the consent and approval of the units. In India, on the other hand, the Parliament can amend most of the provisions of the Constitution single-handedly either by simple majority or by a two-thirds majority. Only in case of some of the provisions the approval of the legislatures of majority of the States is also required. Moreover, the States do not possess any power to initiate amendment to the Constitution. All this has contributed to the strengthening of the Centre at the cost of the States.

(4) Single Citizenship. Usually in other Federations, provision for double citizenship exists, *viz.*, each citizen is not only the citizen of the country as such but is also a citizen of a particular state in which he resides. The Indian Constitution, on the other hand, creates a single citizenship of India which is common to all the people of various States and Union Territories. The power to grant or withdraw citizenship also vests in the Indian Parliament and the States do not possess any power in this regard. The framers of the Indian Constitution deliberately chose to adopt single citizenship.

in the country with a view to check the separatist tendencies and ensures unity of the country.

(5) Inequality of Representation in the Rajya Sabha

The Indian Constitution also deviates from the traditional principle of providing equal representation to the States in the Upper House of the federal legislature. Unlike the U.S. Senate, which accords equal representation to all the States irrespective of their size, the Indian Constitution accords representation to the various States in the Rajya Sabha on the basis of their population. This means that the states with larger population send more representatives in comparison to the states with smaller population. Thus, Uttar Pradesh sends thirty-four members to the Rajya Sabha while smaller States like Mizoram and Manipur send one member each. Further, the Rajya Sabha also has twelve members nominated by the President from amongst persons who have specialised in the field of art, literature, science and social services. This is a clear departure from the federal principle.

(6) Existence of Union Territories : Another feature, which is a clear pointer to the unitary character of the Indian Constitution, is the existence of administrative units known as Union Territories. These units are directly governed by the Central Government and do not enjoy any independent powers or autonomy.

(7) Special Powers of Rajya Sabha on State Subjects

Under the Indian Constitution, the Rajya Sabha can authorise the Parliament to make laws even on the subjects mentioned in the State list. Article 249 of the Constitution provides that if the Rajya Sabha declares by a resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest for Parliament to make laws with respect to any matter enumerated in the State List specified in the resolution, it becomes lawful for the Parliament to make laws for the whole or any part of territory of India with respect to the matter while the resolution remains in force. Such a resolution is initially valid for one year. The existence of this provision in the Constitution implies that the Centre can encroach on the State list at will.

(8) Emergency Provisions The existence of the emergency provisions in the Constitution also poses a serious challenge to the federal character of the Indian polity. The President of India is authorised to proclaim a state of emergency under Articles 352, 356 and 360. During the Proclamation of Emergency, the Parliament gets the power to legislate for the whole or any part of the territory of India with respect to any of the matters enumerated in the State list. The Union Government can also issue directions to the States as to the manner in which their executive authority is to be exercised. Similarly, if the President is satisfied that the constitutional machinery

of a State is not running smoothly and there is a constitutional breakdown, he can proclaim emergency and assume the administration of the State in his own hands. During such a Proclamation, the Parliament is authorised to make laws on all the subjects enumerated in the State list. In case of the financial emergency also the Centre can give directions to any State to observe specified canons of economy and to reserve all their financial Bills for the approval of the President. In short, during emergencies, the powers of the States are further curtailed and they become completely subservient to the Centre. It may be noted that under a typical federation, the Federal Government does not enjoy any such powers. The changes in the relations of the Centre and States, if any, can be effected only through an amendment of the Constitution.

(9) Appointment of Governors by the President The provision regarding the appointment of Governors of States by the President is also a clear violation of the federal principles. Under the Indian Constitution, the governors, who are the administrative heads of the state administration, are appointed by the President and hold office during his pleasure. The States do not have any say in their appointment or removal. Naturally, the Governors act as the agents of the Centre rather than as representatives of the States. To further ensure that the Governors faithfully carry out the instructions of the Central Government, annual conferences of Governors are held under the Chairmanship of the President of India. At such conferences, an appraisal of the working of the Governors is made and they are applauded or reprimanded according to their performance. This clearly gives power to the Centre to control the administration of the States which is contrary to the principles of a true federation.

(10) Common All-India Services Another feature which is a pointer to the unitary character of the Indian Constitution is the provision of common All-India Services like I.A.S., I.P.S., etc. The members of these Services are appointed by the President of India on the recommendations of the Union Public Service Commission and are accountable to the Union Government. The States have hardly any control over the members of these Services. This is in direct contrast to the position obtaining in typical federations like U.S.A., where the States possess independent administrative services which are appointed by and are responsible to the State concerned.

(11) Single Unified Judiciary. Unlike other federations, India possesses a single unified judiciary with the Supreme Court at the apex. The Supreme Court not only exercises supervision but control over the functioning of other Courts. The writs of the Supreme Court are observed throughout the country in all spheres—civil, constitutional and criminal. The judges of High Courts are also independent of the States, which do not possess any power with

regard to their appointment, removal and service conditions. They are appointed by the President and can be removed by him only after they are impeached by the Parliament. Further, there are no separate sets of laws and a single civil and criminal procedure operates throughout the country. All this is a clear pointer to the unitary character of the Constitution and is in complete contrast to the position prevailing in U.S.A., where two separate sets of Courts exist—one for the Centre and the other for the States.

(12) Centralised Election Machinery : The Constitution provides for an Election Commission which is responsible for the conduct, supervision, direction and control of the elections not only to the Parliament but to the State Legislatures as well. The members of the Election Commission are appointed by the President in consultation with the Prime Minister and the States do not have any say in their appointment, removal, working or service conditions. This is yet another unitary feature of Indian Constitution.

(13) Comptroller and Auditor General : The creation of the Office of the Comptroller and Auditor-General of India, who is responsible for the audit of the accounts of the Centre as well as the States, is also a violation of the federal principle. The Comptroller and Auditor General of India is appointed by the President and the States have no say in his appointment or removal.

(14) Inter-State Councils and Boards : The Constitution makes provision for the appointment of Inter-State Councils and Boards for the settlement of disputes and differences between the Centre and the State, and among the States. The members of these Inter-State Councils and Boards are appointed by the President and make necessary recommendations to the President regarding the settlement of disputes. It is noteworthy that in the appointment of the Councils and Boards, the States have no say. This is a clear encroachment on the autonomy of the units of the Indian Federation.

(15) Constitution does not protect territorial integrity of States : Unlike other federations where the territorial integrity of the States is protected by the Constitution, the Constitution of India does not contain any provision to this effect. On the other hand, it specifically denies this right to the States. For example, Article 3 of the Constitution authorises the Parliament to change the name, territory or boundary of any State without ascertaining their wishes. The Parliament can also bifurcate an existing State or combine two or more States into one State. In other words the very existence of the States depends on the sweet will of the Central Government. *(I A S Main 1986)*

Conclusion

It is evident from the above discussion that though the Indian Constitution outwardly possesses a federal structure, in spirit it is

unitary The framers of the Constitution deliberately made the Centre strong in keeping with the inescapable realities of the situation. Some of the factors which weighed with the framers of the Constitution to create, a strong Centre were : (a) to keep the fissiparous tendencies which appeared in the country on the eve of partition under check and to ensure unity of the country , (b) to effectively tackle the serious law and order problem which arose due to large scale migration of population from the areas that went to Pakistan ; (c) to solve the problem of food shortage and inflation which confronted the country at the time of the partition ; (d) the historical experience also convinced them that India had fallen prey to the foreign powers due to internecine rivalries and weak Central government and they thought it desirable to make the Centre strong , (e) to check the separatist tendencies shown by some of the princely States which posed a threat to the unity and integrity of the country : and (f) the framers tried to fall in line with the trend prevailing in other federations of the world where the Centre had grown stronger in the course of time

3 PREAMBLE TO INDIAN CONSTITUTION

The Preamble to the Indian Constitution reads thus

"We the People of India, having solemnly resolved to constitute India into a **Sovereign, Socialist, Secular, Democratic Republic** and to secure to all its citizens

Justice, social, economic and political ,

Liberty of thought, expression, belief, faith and worship ,

Equality of status and of opportunity ,

and to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the **Nation** ,

In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution

Main Features

(*LA S Main 1988*)

According to M R Pollard, Preamble is not a part of the Constitution but it declares the sources, the ideals and political organization of the Constitution. It reveals the following features of the modern Indian Constitution*

(1) **Source of the Constitution** The words of the Preamble 'We the people of India adopt, enact and give to ourselves this Constitution' reveal that the Constitution of India has been framed in the name of the people of India and they are the source of all political sovereignty. Thus popular sovereignty is inherent in the Constitution

(2) **Ideals and Aims of the Constitution** : According to the Preamble, the aim of the Constitution is to ensure justice, liberty, Equality and fraternity. Equality and Fraternity are the watch-words of the French Revolution. The word 'Justice' has been added to these words. It means that the aim of the state and the government is to establish social, political and economic justice.

(3) **Sovereign Democratic Republic** : According to the Preamble, the Constitution has established sovereign democratic republic. These three words carry different and deep meanings. 'Sovereign' means full internal as well as external authority. According to Kooley, "the country having full internal and external power and recognizing no superior authority is sovereign". So, according to the Preamble, India has full authority in all internal and external matters and has not to bow to any superior power.

The term 'democratic' is comprehensive in nature. In a narrow political sense it refers only to the form of government, a representative and responsible system. But in its broadest sense, it embraces, in addition to political democracy, social and economic democracy as well. For this purpose the system of universal adult franchise has been introduced. Equal social, political, religious and cultural rights have been allowed to the citizens of India. However, there is a dearth of economic equality. So this factor has been incorporated in the Directive Principles.

By declaring to become a republic India has chosen the system of electing one of its citizens as its President, the head of the State, at regular intervals.

The adjectives Socialist and Secular were inserted by 42nd Amendment as a populist measure.

(4) **Objective of Preamble** . The Preamble defines the objectives of the Indian Republic. These objectives are fewer in number. They are Justice, Liberty, Equality and Fraternity. The essence of Justice is the attainment of the common good. It embraces the entire social, economic and political sphere of human activity.

The term 'Liberty' is used in the Preamble not merely in a negative but in a positive sense. It signifies not only the absence of any arbitrary restraint on the freedom of individual action but also the creation of conditions which provide the essential ingredients necessary for the fullest development of the personality of the individual.

Liberty and equality are complementary. It signifies equality of status, the status of free individuals and equality of opportunity which implies the availability of opportunity to every one to develop his or her political capacities.

Finally, the Preamble emphasises the objectivity of fraternity in order to ensure both the dignity of the individual and the unity of the nation. In a country like India with many disruptive social

forces, the unity of nation can be preserved only through a spirit of brotherhood that pervades the entire country among all its citizens irrespective of their differences. Through the establishment of a new nation based upon justice, liberty and equality, all must feel that they are the children of the same soil, of the same motherland and members of the same fraternity.

(5) **Embodies the Spirit of the Constitution :** The Preamble embodies the spirit of the Constitution, the determination of the Indian people to unite themselves in a common adventure of building up a new and independent nation which will ensure the triumph of justice, liberty, equality and fraternity.

(6) **Constitutional Significance of Preamble** From a strictly legal point of view, the importance of a Preamble is limited. It cannot qualify the provisions of enactment so long as text is clear and unambiguous.

4. SALIENT FEATURES

The following are the salient features of the Constitution of India

(1) **A Written Constitution** It is a written constitution. It is embodied in a document containing 395 Articles and 10 Schedules. The Constitution contains not only broad principles but also details of the procedures.

(2) **Parliamentary Government** . The Centre and the State Governments are basically parliamentary like the British Government. The Head of the State is, no doubt, the President, but the real power resides within the cabinet which is responsible to and removable by a Parliament elected by the people. The position of the President or the Governor is more or less that of a Constitutional Head like that of the British Crown.

There are, however, some features of the Constitution, which are presidential in nature. First, the President has got the right to send messages to either House of Parliament. Secondly, the President has got the right to return non-money Bills for re consideration to the Parliament. Thirdly, the President can require the Prime Minister to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council. However, these rights are not meant to be used under ordinary circumstances and, hence, do not prevent us from treating the Constitution, in essence, as parliamentary.

(3) **Secular State** : The Constitution declares India to be a secular state. In the words of Mr Venkataraman, the secular state is "neither religious nor irreligious nor anti-religious, but wholly detached from religious dogmas and activities and thus neutral in religious matters". In India perfect religious freedom is granted to

all. There cannot be any state religion. Religious instructions cannot be imparted in educational institutions run and maintained by the State. The State cannot, while giving grants, make distinction between different educational institutions on the basis of religion. Communal votes have been abolished altogether.

(4) **Fundamental Rights** : Fundamental rights are life-lines of democracy which cannot function in their absence. A comprehensive list of fundamental rights has been incorporated in the Constitution. To ensure their adequate enjoyment, a duty has been placed on the Supreme Court to see that these rights are not infringed. The main fundamental rights are 'Right to Equality, Right to Freedom, Right against Exploitation, Right to freedom of Religion, Cultural and Educational Rights, and Right to Constitutional Remedies'.

(5) **Directive Principles of State Policy** : The Constitution contains a comprehensive list of "Directive Principles of State Policy". The difference between the Fundamental Rights and the Directive Principles is that whereas the former are justiciable, the latter are not. Although legal remedies to ensure their fulfilment are not available, yet their incorporation in the Constitution serves a useful purpose. Public opinion is the ultimate sanction behind them. All governments, present as well as future, irrespective of their party affiliations, are bound by them. The voters have got the right to judge the performance of a government with the yardstick of the Directive Principles. The Directive Principles contain rights which, although valuable, are unattainable for the moment.

(6) **Combination of Rigidity and Flexibility** . Our Constitution is a fine blend of rigidity and flexibility. For the amendment of strictly federal provisions, 2/3rd majority of both Houses of Parliament and ratification by at least half of the Legislative Assemblies of the States are required. There are certain provisions which require for amendment only 2/3rd majority in the Central Legislature and no ratification by States is necessary. And lastly there are some provisions which can be changed by a simple majority by the Central Legislature alone. It makes a part of the Constitution flexible. Our Constitution is also flexible in another sense. The President, by the use of his special powers can transform the federal nature of the Constitution into a unitary one giving the Union executive a right to legislate on the entire State List. Even in normal time, the Union Legislature, in some cases acquires the right to legislate on the State list temporarily.

(7) **Rule of law** : Like Britain and U S A , 'Rule of Law' prevails in India also. It means that no person is above law. There is the same law for every person irrespective of his caste, colour or sex, all are equal before law and there are only one kind of courts to try them.

(8) **Judicial Review** : The doctrine of judicial review is implicit in the Indian Constitution. It prescribes limits to the power

of legislation exercised by Parliament or State Legislatures. However, the limits imposed are not of the same order as in U.S.A.

5. CITIZENSHIP

The Constitution of India provides for a single citizenship for the whole of India. It does not lay down permanent law relating to the Indian citizenship but has left the matter entirely to legislation by Parliament. However, it lays down the classes of persons who would be deemed to be citizens of India at the commencement of the Constitution.

(1) **Domicile** : A person domiciled in India at the commencement of the Constitution of India is a citizen of India provided :

- (i) he was born in India;
- (ii) either of his parents was born in India, and
- (iii) he has ordinarily been resident in India for the last five years immediately preceding the commencement of the Constitution.

(2) **Immigrants from Pakistan** Any person who has migrated to India from Pakistan is a citizen of India provided he or either of his parents or grand-parents were born in pre-partition India, and

- (a) if he migrated before the 19th July 1948, he has been ordinarily resident in India since the date of migration.
- (b) if he migrated on or after the 19th July 1948, he has been registered as a citizen

(3) **Migrants to Pakistan** : A migrant to areas now forming Pakistan after the 1st March 1947 is not a citizen of India. But if he returned to India under a proper permit for resettlement or under the authority of any law and is duly registered, he is a citizen of India.

(4) **Residents in Foreign Countries** : Any person ordinarily residing out of India is deemed to be a citizen of India if he or either of his parents or any of his grand-parents was born in pre-partition India provided that he is registered as a citizen by a diplomatic or consular representative of India.

Acquisition of Citizenship

(P.C.S. 1986)

According to the Citizenship Act 1955, the citizenship could be acquired through any of the following five methods :

(1) **By Birth** : All the persons born in India on or after 26th January 1950 are treated as citizens by birth. However, the children born to foreign diplomats posted in India are not entitled to Indian citizenship.

(2) **By Descent** : A person born even outside India shall be treated as citizen of India by descent if at the time of his birth, his father is a citizen of India.

(3) **Registration :** A person can acquire citizenship of India by registration with the appropriate authority. The persons who could acquire citizenship by registration include (a) persons of Indian origin who have ordinarily been resident in India for six months, immediately before making an application for registration. A person is deemed to be of Indian origin if he, or either of his parents, or any of his grand-parents, was born in the undivided India, (b) persons of Indian origin ordinarily resident outside India, (c) women married to Indian citizens, (d) minor children of persons who are citizens of India, (e) persons of full age and capacity who are citizens of Commonwealth countries or Republic of Ireland.

(4) **By Naturalisation** A person can acquire citizenship of India by naturalization if he fulfills the following qualifications :

- (a) he belongs to a country where the citizens of India are allowed to become subjects or citizens of that country by naturalisation,
- (b) he renounces the citizenship of his country in accordance with the law of that country and intimates the renunciation to the Government of India;
- (c) he has been residing in India or serving the Government of India for at least 12 months immediately preceding the date of application,
- (d) he possesses workable knowledge of an Indian language.

The Act, however, vests the authority in the Government of India to waive any or all of the above conditions in favour of a person who has rendered distinguished service in the cause of philosophy, science, art, literature, world peace, etc. It may be further noted that a person acquiring citizenship by naturalisation has to take an oath of allegiance to the Constitution of India.

(5) **By Incorporation of Territory :** In the event of certain territory being added to the territory of India, the Government can specify the persons or categories of persons who shall be entitled to Indian citizenship, by reasons of their connection with that territory.

Loss of Citizenship

The Act envisages three methods for the loss of the Indian citizenship, which are as follows :

(1) **By Renunciation** An Indian citizen who wants to become the national of another country can voluntarily renounce his citizenship by making a necessary declaration to this effect in the prescribed form. The person filing such an application ceases to be the Indian citizen after the date of registration of the declaration. It may be noted that even the minor children of such a person also cease to be citizens of India.

(2) **By Termination** : The citizenship of a person is automatically terminated if he voluntarily acquires the citizenship of any other country by naturalisation, registration or otherwise. However, the citizenship of a person is not terminated if he acquires the citizenship of a country with which India is at war, till such time as normal relations are restored between the two countries.

(3) **By Deprivation** : A person can be deprived of his citizenship under the following conditions

- (a) if he obtains the certificate of citizenship by fraud, false representation or concealment of any material fact ;
- (b) if he shows disloyalty or disaffection towards the Indian Constitution ;
- (c) if he assists a country with whom India is at war ;
- (d) if he stays abroad for seven consecutive years without showing any intention to continue as Indian citizen ; and
- (e) if he is sentenced to imprisonment for a period of not less than two years within five years of the naturalisation or registration

It is noteworthy that the citizenship of a person can be taken from him only if he has acquired Indian citizenship by naturalisation, pure domicile or registration. The persons, who are citizens of India by birth or descent, cannot be deprived of their citizenship in any of the above manners.

6. AMENDMENT TO THE CONSTITUTION

The framers of the Indian Constitution were anxious to avoid making the Constitution either so flexible as to become a plaything of the passing whims and passions of a ruling party or so rigid as to be incapable of adapting itself to the changing situations. It is, therefore, a unique blend of flexibility and rigity.

Certain provisions are easily amendable as in Great Britain, while in the case of certain other provisions, amendment is as difficult as in the U S A. The procedure for amendment has been clearly laid in the text of the Constitution (Article 368).

While agreeing with the view that the Constitution being a fundamental document should not undergo too frequent and easy changes, as this would undermine the confidence of the citizens in the abiding nature of the Constitution, Pandit Nehru observed that there was no permanence in the Constitution. This would stop the nation's growth, the growth of living, vital and organic people. Though the Indian Constitution is bulky, it cannot be accused of rigidity.

Indian Constitution lays down three methods of amending the Constitution

(1) The general provision made for the amendment of the Constitution is that an amendment to the Constitution can be initiated only by the introduction of a Bill in either House of Parliament. If the Bill is passed by a majority of total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting in each house and thereafter assented to by the President, the Constitution stands amended accordingly.

(2) Changes in the Constitution with regard to the following matters can be made by the Parliament, after the Bill has been passed through both the Houses of Parliament by a majority of total membership of each House and by a two-thirds majority of the members present and voting in each House and having been *ratified* by not less than one-half of the States and assented to by the President :

- (i) the manner of election of the President ,
- (ii) extent of executive powers of the Union and the States ,
- (iii) provisions relating to the Supreme Court and the High Courts ;
- (iv) distribution of legislative powers between the Union and the States ,
- (v) representation of States in the Parliament ; and
- (vi) provisions for the amendment of the Constitution

(3) Changes in the Constitution with regard to the following matters can be made by the Parliament after the Bill has been passed by both the Houses of Parliament by a simple majority and on having received the assent of the President :

- (i) reorganisation of States ,
- (ii) creation or abolition of Upper Chambers in the States ,
- (iii) changes in the qualification of Indian citizens ;
- (iv) administration of centrally administered areas , and
- (v) constitution of centrally administered areas

These matters are, as a matter of fact, not treated as amendments of the Constitution

Important Amendments

(IAS Mamm, 1979)

Some of the important amendments so far made to the Constitution of India are given below

(1) **First Amendment (1951)** · It provided for reasonable restrictions on speech in the interest of the security of India, friendly relations with foreign states, public order, etc

(2) **Seventh Amendment (1956)** It was concerned with the reorganisation of states along the linguistic lines

(3) **Twenty-fourth Amendment (1971)** It makes Article 368 affirming the constituent power of the Parliament to amend any provision of the Constitution.

(4) **Thirty-eighth Amendment (1975)** · It made non justiciable the declaration of Emergency and promulgation of ordinances by President and Governors according to their jurisdiction

(5) **Forty-second Amendment (1976)** It was the most comprehensive amendment to the Constitution so far Its important provisions were :

- (i) introduction of two adjectives 'Socialist' and 'Secular' to redefine our polity in the Preamble to the Constitution ,
- (ii) primacy of Directive Principles over the Fundamental Rights ;
- (iii) provision of certain Fundamental Duties under 10 heads in Part IV (A) ,
- (iv) extension of duration of Lok Sabha from 5 to 6 years ,
- (v) restriction on the jurisdiction of the Supreme Court and High Courts to decide on the constitutional validity of the central and state laws by prescribing 2/3rd majority ,
- (vi) placement of all constitutional amendments beyond the judicial scrutiny ,
- (vii) declaring the amending power of the Parliament as absolute and without limitation ,
- (viii) provision of administrative tribunals for speedy and substantial justice, and
- (ix) making it obligatory for the President to accept the advice of the Council of Ministers (*J A S Mann, 1979*)

(6) **Forty third Amendment (1978)** It restored to the High Courts and the Supreme Court their jurisdiction to examine constitutional validity of any Central or State law

(7) Forty-fourth Amendment (1978) : Its important provisions are :

- (i) internal emergency to be declared only for threatened or actual 'armed rebellion' ;
- (ii) fundamental rights to life and liberty could not be suspended even during emergency ;
- (iii) deletion of right to property from the list of Fundamental Rights ;
- (iv) emergency to be proclaimed only on the written advice tendered to the President by the Cabinet , and
- (v) proclamation of emergency would have to be approved by both Houses of Parliament by the same majority which is necessary to amend the Constitution and such approval would have to be given within one month
Any such proclamation would be in force for six months

(8) Fifty-second Amendment (1985) : It is also called Anti-Defection Act. It provides that any Member of Parliament or State Legislature will lose his membership if he :

- (a) voluntarily gives up the membership of the party on whose ticket he is elected ; or
- (b) if he votes or abstains from voting in such House contrary to any directive issued by his political party and such voting or abstention is not condoned by the party within 15 days

The disqualifications have been included in a new schedule to the Constitution, called "Tenth Schedule "

(9) Fifty-third Amendment (1986) It grants statehood to Mizoram, thus making it the 23rd State of India.

(10) Fifty-fourth Amendment (1986) : It raises the salaries of the Chief Justice of India from Rs 5,000 to Rs 10,000, those of Supreme Court Judges and Chief Justices of High Courts from Rs 4,000 to Rs 9,000 and High Court Judges from Rs 3,500 to Rs 8,000 per month

(11) Fifty-fifth Amendment (1987) : It grants Statehood to Arunachal Pradesh, thus making it the 24th State of India

(12) Fifty-sixth Amendment(1987) : It grants statehood to Goa, thus making it the 25th State of India

(13) Fifty-seventh Amendment (1987) : It provides for reservations of seats for Scheduled Tribes in State Assemblies of Meghalaya, Mizoram, Nagaland and Arunachal Pradesh

(14) Fifty-eighth Amendment (1987) : It authorises the President to publish an authoritative Hindi translation of the Constitution

(15) Fifty-ninth Amendment (1988) : It provided for the promulgation of Emergency in the Punjab on account of internal disturbances and extension of President's Rule upto three years

(16) Sixty-second Amendment (1989) : It provides for reservation for another ten years for members of the Scheduled Castes and Scheduled Tribes in the Parliament and State Legislatures and Reservation for Anglo-Indian community by nomination in the Lok Sabha up to the 25th January, 2000

(17) Sixty-third Amendment (1989) : It repeals the 59th Constitution Amendment, which empowered the Government to impose emergency in Punjab

(18) Sixty-fourth Amendment Bill (1990) : It extended President's Rule in Punjab for six months from May 11, 1990

(19) Sixty-fifth Amendment (1990) : It seeks to bring all land reforms in the Ninth Schedule beyond litigation

(20) Sixty-sixth Amendment (1990) : It amends Article 338 to establish a National Commission for Scheduled Castes and Scheduled Tribes, which will consist of a Chairman, Vice-Chairman and three other members

(21) Seventy-fourth Amendment (1991) : It provides for a 70-member Assembly and 7-member Council of Ministers from Delhi

(22) Seventy-Sixth Amendment (1992) : It enables the elected members of Pondicherry and Delhi to participate in the Presidential election

Exercises

1. What is the basic structure of the Indian Constitution ?
(I A S Main, 1979)
2. "India is not a federation, but it has definite federal features"
Elucidate (I A S Main, 1982)
3. What are the forces that have enabled India to maintain democratic features ?
(I A S Main, 1983)
4. What are the major commitments of the Constitution of India as incorporated in its Preamble ?
(I A S Main, 1988)
5. According to the Constitution of India, who are the citizens of India and how is the citizenship acquired ?
(P C S 1986)
6. What are the functions of Zonal Councils ?
(I A S Main, 1983)

Fundamental Rights

1. NATURE OF FUNDAMENTAL RIGHTS

Fundamental Rights are the basic rights which are essential for the growth of an individual's personality and are enjoyable by each citizen irrespective of caste, colour, creed, religion, race and sex. These have been provided in Part III (Arts. 14 to 32) of the Indian Constitution. These rights can broadly be classified into three categories. *First* : Rights granted exclusively to the citizens of India. *Second* : Rights granted to all persons residing in India, irrespective of the fact whether they are citizens of India or not. *Third* : Rights granted to groups of citizens. The Constitution of India does not merely contain the bill of rights, which are simply paper rights. These have been made justiciable *i.e.*, there is force of law behind them. The courts have been entrusted with the responsibility to enforce them where they have been violated. They are thus props of Indian democracy.

Significance of Fundamental Rights

(I.A.S. Mam, 1981)

Fundamental Rights provided in Part III of the Constitution have special significance since it is laid down that no wing of the State may enact or enforce laws contravening or abridging any Fundamental Right. The Constitution-makers, undoubtedly, wanted to assign a special status to these rights. However, most of the rights are qualified by reasonable restrictions. Another salient feature is that the very enforcement of the right is made a Fundamental Right. Constitutionally speaking, any right accruing to a person from outside Part-III is less important compared to these Fundamental Rights

Nature of Fundamental Rights

The following are the salient features of the Fundamental Rights contained in the Indian constitution :

(1) **Non-discriminatory** : The Constitution unequivocally declares that rights contained in Part-III of the Constitution are to be enjoyed by all the citizens of India. These rights are not meant for any particular caste, class, religion or the residents of any particular State. There can be no discrimination.

(2) **Non-Absolute** : Another significant feature of these rights is that they are not absolute. The Constitution of India imposes direct restrictions on these rights. It also empowers the Government to impose reasonable restrictions on the fundamental rights in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign states, decency or morality. Reasonable restrictions can also be put on the fundamental rights in the interest of the general public or for the protection of the interests of any Scheduled Tribes.

(3) **Limitations on the State** : The theory of the Fundamental Rights implies a limited government. Accordingly, Fundamental Rights impose restrictions on the State as well. For example, the State cannot discriminate against citizens on grounds of caste, class, race, sex, religion, place of residence, etc. Similarly, citizens cannot be deprived of the right to equality before law. Again, there is the right to equality of opportunity in public employment to all the citizens.

(4) **Suspension of Fundamental Rights** : Another significant feature about the fundamental rights is that they can be restricted or suspended as the circumstances demand. During the period of emergency, the six freedoms guaranteed by Art 19 are automatically suspended.

(5) **Justiciable Rights** : The judiciary has been vested with the responsibility to act as guardian of these rights. The right to move the Supreme Court for the enforcement of Fundamental Rights is itself a guaranteed right as provided for in Art 32 of the Constitution. Thus, whenever the State or any other authority encroaches upon the rights of a person, the latter can move the Supreme Court or the High Court for the enforcement of his rights. The Supreme Court and the High Courts are empowered to issue "Directions or orders or writs, whichever may be appropriate, for the enforcement of the rights". The judiciary is thus the protector and guarantor of Fundamental Rights.

(6) **Amendment to Fundamental Rights** : Fundamental Rights can be amended by the procedure given in Art 368. According to this Article, itself Parliament is competent to amend the provisions of the Fundamental Rights with two-thirds majority of the total membership of the Parliament.

(7) **Enforcement of Fundamental Rights** : Another important feature of the Fundamental Rights in India is that there is a special Constitutional provision for their enforcement. The right to move the Supreme Court for the enforcement of Fundamental Rights is provided in Article 32.

2 ENUMERATION OF FUNDAMENTAL RIGHTS

The fundamental rights enumerated in the Indian Constitution are the most elaborate in the world. The Constitution of India provides for Fundamental Rights by devoting a complete and separate part (Part III) and classifies them under six categories. Six Fundamental Rights are :

- (1) Right to Equality (Arts 14-18)
- (2) Right to Freedom (Arts 19-22)
- (3) Right against Exploitation (Arts 23-24)
- (4) Right to Freedom of Religion (Arts 25-28)
- (5) Cultural and Educational Rights (Arts 29-30)
- (6) Rights to Constitutional Remedies (Art 32)

(1) **Right to Equality** : It guarantees to all citizens

- (i) equality before law ,
- (ii) prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth. But special provisions may be made for women, children, socially and educationally backward classes, scheduled castes and scheduled tribes ;
- (iii) equality of opportunity in the matter of public appointment. The Parliament may, however, prescribe relaxation in qualifications for certain services under the State. Scheduled Castes and Scheduled Tribes may get specially favoured treatment and the seats may be reserved for backward classes in public appointments ,
- (iv) abolition of untouchability , and
- (v) abolition of titles, excepting military and academic distinctions

(2) **Right to freedom** : The Constitution guarantees to all citizens —

- (i) freedom of *speech* and expression ,
- (ii) freedom of *assembly* peaceably and without arms .
- (iii) freedom to form *associations* and unions ,
- (iv) freedom of *movement* throughout the territory of India ,
- (v) freedom of *residence* ;
- (vi) freedom to practise any *profession*, occupation, trade or business. The state may, however, nationalise a trade or industry and undertake it itself, to the complete or partial exclusion of others

All these rights are, however, subject to restrictions that may be imposed by the state in the interests of—

- (a) sovereignty and integrity of India ;
 - (b) the security of the state ,
 - (c) friendly relations with foreign powers ,
 - (d) public order, decency or morality , or
 - (e) in relation to contempt of court, defamation or incitement to offence.
- (3) **Right against Exploitation** : This includes—
- (i) prohibition of traffic in human beings and forced labour But the State may impose compulsory service for public purposes , and
 - (ii) prohibition of employment of children below the age of 14 years in factories, mines and hazardous employment
- (4) **Right to Freedom of Religion** This group includes—
- (i) freedom of conscience and the right to profess, practise and propagate religion ,
 - (ii) freedom to manage religious affairs ;
 - (iii) freedom from the payment of taxes for promotion of any particular religion , and
 - (iv) immunity from attendance at religious instructions or worship in educational institutions
- (5) **Cultural and Educational Rights** : These include—
- (i) protection of language, script or culture of the minorities ,
 - (ii) right of minorities to establish and administer educational institutions ; and
 - (iii) prohibition of denial of admission into any educational institution maintained by state or receiving aid out of state funds on account of religion, race, caste or language.
- (6) **Right to Constitutional Remedies** . It guarantees the right to move Supreme Court for the enforcement of the Fundamental Rights The Supreme Court has the powers to issue directions or orders or writs including writs in the nature of *habeas corpus*, *mandamus*, *certiorari* Parliament may, by law, empower any other Court in addition to Supreme Court, to exercise within its jurisdiction all or any of the powers conferred on the Supreme Court But the right to constitutional remedies may be suspended during a proclamation of emergency

By the Constitution (24th Amendment) Act, the Parliament can amend the Fundamental Rights

3. RIGHT TO EQUALITY

The right to equality guarantees to all citizens -

(1) **Equality before law** The state shall not deny to any person equality before law or equal protection of laws within the territory of India

(2) **Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

(i) The state shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them

(ii) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subjected to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment , or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of state funds dedicated to the use of general public.

(3) **Equality of opportunity in matters of public employment**

(i) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State

(ii) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them be ineligible for, or discriminated against, in respect of any employment or office under the state

(4) **Abolition of untouchability**

(i) "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law

(5) **Abolition of Titles**

(i) No titles, not being military or academic distinctions, shall be conferred by the state

(ii) No citizen of India shall accept any title from any foreign state

(iii) No person, who is not a citizen of India, shall, while he holds any office of profit or trust under the state, accept without the consent of the President any title from any foreign state.

(iv) No person holding any office of profit or trust under the state shall, without the consent of the President, accept any

present, emoluments or office of any kind from or under any foreign state. (I.A.S. MAIN 1990)

Exceptions

(1) The state can make special provision for women and children, e.g., special institutions may be established for the exclusive use of women or children without infringing Article 15(1) of the Constitution [Art 15(3)]

(2) The state can also make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes [Art 15(4)]

(3) The Parliament may make any law prescribing residence within the state as a condition for particular classes of employment or appointment under any state specified in First Schedule or any local or other authority [Art 16(3)]

(4) The state can make provisions for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state. [Art 16(4)]

(5) Offices connected with a religious or denominational institution may be reserved for members professing that particular religion or belonging to the particular denomination to which the institution relates [Art 16(5)]

4. EQUALITY BEFORE LAW

Article 14 of the Constitution states that "the state shall not deny to any person equality before law or equal protection of laws within the territory of India"

(1) Equality before Law

Meaning Equality before law means that no man is above law of the land and that every person, whatever be his rank or status, is subject to the ordinary law and amenable to the jurisdiction of the ordinary tribunals. Again, every citizen, from the Prime Minister down to the humblest peasant, is under the same responsibility for every act done by him without lawful justification and in this respect, there is no distinction between the officials and private citizens

Exceptions The Indian Constitution has allowed certain exceptions to the rule of "equality before law" The exceptions are detailed in Article 361, which lays down

(1) The President or Governor of a state shall not be answerable to any court for the exercise and performance of the

powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or a Governor in any court during his term of office

(3) No process for the arrest or imprisonment of the President or the Governor of a State shall issue from any court during his term of office

(4) No civil proceedings in which relief is claimed against the President or the Governor of a State shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after he entered upon his office as President or Governor of such state, until the expiration of two months after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, the causes of action thereof, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

(11) **Equal protection of law**

It means "that among equals the law should be equal and equally administered, that likes should be treated alike " In other words, it means the right to equal treatment in *similar circumstances* both in privileges conferred and in liabilities imposed by law.

None should be favoured and none should be placed under any disadvantage, in circumstances that do not admit of any reasonable justification for a different treatment. Thus, it does not mean that every person should be taxed equally, but that persons under the same character should be taxed by the same standard

But if there is a *reasonable* basis for classification, the legislature would be entitled to make a different treatment. Thus, it may : (a) exempt certain classes of property from taxation at all, such as charities, libraries and the like, (b) impose different specific taxes upon different trades and professions, (c) tax real and personal property in different manner and so on. Nor would guarantee of equal protection prohibit the granting of special privileges to particular enterprises or employments in the interest of general welfare, e.g., in favour of banks, insurance companies, railways and the like provided there is no discrimination within the classes themselves

5. RIGHT TO FREEDOM

Article 19 of the Constitution lays down that all citizens have the right to .

- (i) freedom of speech and expression ;
- (ii) freedom of assembly, peaceably and without arms ;
- (iii) freedom to form associations and unions ;
- (iv) freedom to move freely throughout the territory of India ;
- (v) freedom to reside and settle in any part of India
- (vi) freedom to practise any profession, occupation trade or business.

(I A S Mam, 1990)

Restrictions

All these rights are subject to restrictions that may be imposed by the state in the interest of : (a) sovereignty and integrity of India , (b) security of the state ; (c) friendly relations with foreign states ; (d) public order, decency or morality , or (e) in relation to contempt of court, defamation or incitement to an offence Some of these restrictions are

(1) The freedom of speech and expression does not confer upon an individual a licence to commit illegal or immoral acts or to incite others to overthrow the established government by force or unlawful means

(2) The freedom of assembly is subject to the condition that assembly must be peaceable and without arms and subject to such reasonable restrictions as may be imposed by the state in the interest of public order

(3) The freedom to form associations does not entitle any group of individuals to enter into a criminal conspiracy to organise or form any association dangerous to the public peace or to make illegal strikes, or to create public disorder, or to undermine the sovereignty or integrity of India

(4) The right to move freely throughout India is subject to the restrictions imposed by the state in the interest of the general public or for the protection of any Scheduled Tribe.

(5) The right to carry on any occupation, trade or business is subject to reasonable restrictions imposed by the state in the interest of the general public and subject to any law laying down qualifications for carrying on any profession or technical occupation or enabling the state itself to carry on any trade or business to the exclusion of others

(6) The right to practise any profession, occupation, trade or business is subject to the condition that the State can prescribe professional or technical qualifications It is lawful to carry on by a corporation owned or controlled by the State any trade, business, industry or service to the exclusion, complete or partial, of the citizens or otherwise It is under this provision that the net of public sector is ever spreading

6. FREEDOM OF SPEECH

Article 19 (1)(a) of the Constitution guarantees the right to freedom of speech and expression. It is an inestimable privilege in a free Government but the Constitution does not grant an absolute right of speech or publication without responsibility, whatever one may choose. It does not give a licence to make every possible use of language without incurring risk of punishment for abuse of this freedom. The right to freedom of speech and expression is limited by the operation of the existing laws, and the power of the state to make any law, in so far as such law imposes reasonable restrictions on the exercise of this right in the interests of (a) the sovereignty and integrity of India; (b) security of India, (c) friendly relations with foreign states; (d) public order; (e) decency or morality. The state can in particular make any law relating to contempt of court, defamation or incitement to an offence.

7. PERSONAL LIBERTY

Article 22 aims at protecting the individual's life and personal liberty. Article 20 lays down that .

(a) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the offence charged as offence.

(b) No person shall be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(c) No person shall be prosecuted and punished for the same offence more than once.

(d) No person accused of any offence shall be compelled to be a witness against himself.

(e) Art 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. It means that a person cannot be deprived of his life or personal liberty in an arbitrary manner. The procedure is to be established by law.

(f) The State shall not deny to a person equality before the law or the equal protection of laws within territory of India, and

(g) No person can be arrested in an arbitrary manner, nor can he be detained for an indefinite period. Article 22 provides that whenever a person has been detained, he must be informed, as soon as may be, of the grounds of such arrest. Secondly, the detained person shall have the right to consult and be defended

by a lawyer of his choice. Thirdly, he must be produced before the nearest magistrate within a period of 24 hours.

It is clear from the above discussion that the Executive shall not be entitled to interfere with the personal liberty of a citizen unless it can justify its action by some provision of law. In short, no man can be subjected to any physical coercion that does not admit of legal justification. When, therefore, the State, or any of its agents, deprives an individual of his personal liberty, such action can be upheld only if there is a law enabling the State to take such action and the procedure established by law has been strictly and scrupulously observed.

Again, personal freedom is secured by the Indian Constitution through the judicial writs of Habeas Corpus by means of which an arrested person may have himself brought before the court and have the ground of his imprisonment examined and regain his freedom if the court finds that there is no legal justification for his imprisonment.

In a case, where there is a law authorising the deprivation of liberty of a person but the conditions imposed by law to take away his liberty have not been strictly and scrupulously complied with, the court will set the person concerned at liberty. But in no case can a citizen be given absolute freedom.

The people's representatives, assembled in Parliament, can determine how far the rights of the individuals should be curtailed in the collective interest or for the security of the state itself. Thus, Article 21 is not intended to be a limitation upon the powers of the Legislature. It only safeguards the individual against arbitrary or illegal action on the part of the state.

8. PREVENTIVE DETENTION

Right to life or personal liberty is no doubt very important, but Article 22 provides for preventive detention also. Article 22 (2) provides that every person, who is arrested and detained in custody, shall be produced before the nearest magistrate within a period of 24 hours of such arrest. However, according to Art 22(3) this provision shall not be applicable to (a) enemy aliens, and (b) persons held in custody under a law providing for preventive detention. Both the Centre as well as the States can make such a law. The Union Parliament has exclusive authority to enact laws providing for preventive detention for reasons connected with defence, foreign affairs or the security of the State. A State Legislature can also pass laws providing for preventive detention for reasons connected with the security of State, the maintenance of public order or the supplies and services essential to the community.

Lest the Government should abuse its power, the Constitution provides some safeguards to persons arrested under the preventive detention laws

These safeguards are

(1) Normally no person can be held under preventive detention for more than two months

(2) A person detained under preventive detention shall, as soon as possible, be informed of the ground of his detention. However, the detaining authority can decline to disclose facts in public interest

(3) The detained person shall have the right to defend himself by a counsel of his choice

(4) The detained person can be held for more than two months only if an Advisory Board, consisting of persons who are qualified to be appointed as judges of a High Court, after reviewing the case, is satisfied that there is sufficient reason for his detention beyond two months

(5) If the Advisory Board does not find any valid reason for the arrest, the Government is bound to release the detainee

In 1950 the Parliament passed the Preventive Detention Act. Originally this Act was passed for one year but was extended, year after year, till 1969. In 1971, The Maintenance of Internal Security Act (MISA) was enacted, more or less, on the same lines. In December 1980, the Parliament passed the National Security Act (NSA), providing for preventive detention.

9. RIGHT AGAINST EXPLOITATION

The Constitution of India recognises the dignity of the individual and protects him against any form of exploitation, either by the state or by the privileged class in the society. Art 23 provides that traffic in human beings and *begar* (forced labour) and similar other forms of forced labour are prohibited. The State has, however, reserved to itself the right to secure compulsory service from the people for public purpose, e.g., compulsory military training and military or industrial conscription. But while imposing such service, the State shall not make any discrimination on ground only of religion, race, caste or class or any of them. The word 'sex' is a significant omission.

Art 24 prohibits the employment of children below the age of 14 in any factory or other hazardous employment. Art 39(f) also provides that the State shall direct its policy towards securing that the tender age of children is not abused and childhood and youth are protected against exploitation and material and moral abandonment.

10. RIGHT TO FREEDOM OF RELIGION

Art 25 provides that subject to public order, morality and health, all persons are equally entitled to freedom of conscience and the right to profess, practise and propagate religion. However, Indian Constitution provides the word *propagate* and not *convert*. Art 25 permits the State to regulate economic, financial or other secular activities which may be associated with religious practice. The state may also provide for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. The Sikhs have been allowed to carry *kirpans* (swords).

Art 26 provides that subject to public order, morality and health, every religious denomination shall have the right to (i) establish and maintain institutions for religious and charitable purposes, (ii) to manage its own affairs in matters of religion, (iii) to own and acquire movable and immovable property, and (iv) to administer such property in accordance with law.

Art 27 provides that no person shall be compelled to pay taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion and maintenance of any particular religion or religious denomination.

Art 28 prohibits imparting of religious instructions in any educational institution wholly maintained out of state funds. But this prohibition shall not apply to any educational institution which is established under any endowment or trust which requires that religious instruction should be imparted in such institution even if that educational institution happens to be administered by the State.

11. CULTURAL AND EDUCATIONAL RIGHTS

Under Articles 29 and 30, the Constitution guarantees certain cultural and educational rights. Art 29 provides that any section of the citizens residing in the territory of India or any part thereof, having a distinctive language, script or culture of its own, shall have the right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of the State funds on grounds only of religion, race, caste, language or any of them.

Article 29 protects the interests of the minorities in India. Those minorities may be religious, linguistic or cultural. This Article helps the minorities to protect their religion, language and culture.

Article 30 provides that all minorities, whether based on religion or language, shall have the right to establish and administer

educational institutions of their choice. The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language

12 RIGHT TO CONSTITUTIONAL REMEDIES

Article 32 of the Indian Constitution, which deals with the right to 'constitutional remedies', has been described by Dr B R. Ambedkar, the Chairman of the Drafting Committee of the Indian Constitution, as the very heart of the Constitution. It guarantees the right to move the Supreme Court by appropriate proceedings for the enforcement of rights conferred by Part III of the Constitution. The Supreme Court has been vested with special jurisdiction and responsibility in the matter of enforcement of Fundamental Rights. In the exercise of this jurisdiction, the Supreme Court is empowered to issue orders, directions and writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warrant* and *certiorari*, whichever may be appropriate. This power of the Supreme Court is not exclusive but is concurrent with that of the High Courts. Under Art. 226, the High Courts have also been empowered to issue orders, directions and writs for the enforcement of the Fundamental Rights. It is the duty of the judiciary to enforce the rights of an individual. Thus Article 32 is the prop of the Indian democracy. (I A S Main 1987)

(1) Writ of Habeas Corpus

(I A S Main, 1983)

It is the most valuable writ for personal liberty. *Habeas corpus* means 'Let us have the body'. A person, when arrested, can move the Court for the issue of Habeas Corpus. It is an order by a Court to the detaining authority to produce the arrested person before it so that it may examine whether the person has been detained lawfully or otherwise. If the Court is convinced that the person is illegally detained, it can issue orders for his release.

(2) The Writ of Mandamus

(I A S Main, 1990)

'Mandamus' is a Latin word which means 'We command'. Mandamus is an order from a superior court to a lower court or tribunal or public authority to perform an act, which falls within its duty. It is issued to secure the performance of public duties and to enforce private rights withheld by the public authorities. In short, it is a writ issued to a public official to do a thing which is part of his official duty but which he has, so far, failed to do. This writ cannot be claimed as a matter of right. It is the discretionary power of a court to issue such writs.

(3) The Writ of Quo-Warranto

The word 'Quo-Warranto' literally means "by what warrants?" It is a writ issued with a view to restraining a person from acting in a public office to which he is not entitled. The writ of quo-warranto is used to prevent illegal assumption of any public office or usurpation of any public office by

anybody. For example, a person of 60 years is appointed to fill a public office whereas the retirement age is 58 years. Now the appropriate High Court has a right to issue a writ of quo-warranto against the person and declare the office vacant.

(4) The Writ of Prohibition

Writ of prohibition means to forbid or to stop and it is popularly known as 'Stay Order'. This writ is issued when a lower court or a body tries to transgress the limits of powers vested in it. It is a writ issued by a superior court to a lower court or a tribunal forbidding it to perform an act outside its jurisdiction. After the issue of this writ, proceedings in the lower court etc. come to stay.

(5) The Writ of Certiorari

Literally, Certiorari means to be certified. The writ of certiorari is issued by the Supreme Court to some inferior court or tribunal to transfer the matter to it or to some other superior authority for proper consideration (*I.A.S. Main 1987*).

13 SIGNIFICANCE OF FUNDAMENTAL RIGHTS

Significance of the Fundamental Rights Fundamental rights provided in Part III of the Constitution have special significance since it is laid down that no wing of the State may enact or enforce laws contravening or abridging any fundamental right. The Constitution-makers undoubtedly wanted to assign a special status to these rights. However, most of these rights are qualified by reasonable restrictions. Another salient feature is that the very enforcement of rights is made a Fundamental Right. Constitutionally speaking, any right accruing to a person from outside Part III is less important compared to the Fundamental Rights (*I.A.S. Main, 1981*).

14 RIGHT TO PROPERTY

The rights regarding property have been deleted from Part III by the 44th Amendment Act, 1978, thereby nullifying the 'Fundamental' status of the property rights. The Government decided that the frequent changes in the Part III in the context of litigation could be avoided by deleting property rights altogether from Part III. Now Property Right is only a statutory or legal right, as per Article 300A. However, in practice no substantial change has occurred in the extent or enforcement of property rights available in India.

(*I.A.S. Main, 1987*)

15 FUNDAMENTAL DUTIES

Fundamental Duties have been provided in Part IV A, (Article 51 A) of the Constitution by 42nd Amendment of the Constitution. These duties are intended to serve as a constant reminder to every citizen that while the Constitution specifically confers upon them certain fundamental rights, equally the citizens also are required to observe certain basic norms of democratic conduct and democratic behaviour. For the first time a set of 10 Fundamental Duties of

citizens have been enumerated. The Chapter of Fundamental Duties is by far the most fundamental and very important for every generation, present as well as the future. According to these, it shall be the duty of every citizen of India :

1. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem ;
- 2 to cherish and follow the noble ideals which inspired our national struggle for freedom ;
- 3 to uphold and protect the sovereignty, unity and integrity of India ;
- 4 to defend the country and render national service when called to do so ,
5. to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women ;
6. to value and preserve the rich heritage of our composite culture ,
- 7 to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures ,
8. to develop the scientific temper, humanism and spirit of inquiry and reform ,
9. to safeguard public property and to abjure violence ; and
- 10 to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement

(I A S Main, 1980, 82)

Importance : Inclusion of the Fundamental Duties in the Constitution is a progressive step. By inserting the Fundamental Duties, 42nd Amendment has removed one of the biggest drawbacks in the Constitution. No country can develop unless its citizens pay more attention towards duties rather than towards rights. Mahatma Gandhi defined right "as duty well performed". The new chapter on Fundamental Duties, according to H.R. Gokhale, the then Law Minister of India, "is the palm embodying noble ideals, rhythm, harmony with the impress of the hand of the Prime Minister".

Drawbacks : (1) But, on the other hand, Fundamental Duties have also been criticised and healthy criticism has been made by Mr. Bhupesh Gupta in a Communist Party publication. According to him, the Committee (Swaran Singh Committee) has not critically examined as to why the duties are implied or arise from the Constitution and existing statutory law including the duties of the

government have not been duly observed. Why, for instance, could the monopolists get away with their calculated defiance of the duty not to indulge in economic activities and other business practices that lead to the concentration of wealth and means of production to the national detriment ?

(2) Another point of criticism is that some Fundamental Duties are vague and it is not possible for an average man to understand them. For example, the duties pertaining to upholding the noble ideals of the freedom struggle or the development of a "scientific temper and humanism and spirit of enquiry and reform" are not understood by the ordinary citizens.

(3) Another drawback of Fundamental Duties lies in their incorporation in Part IV of the Constitution. Without appropriate legal sanctions, Fundamental Duties are mere pious wishes.

Conclusion The rights and duties of the citizens, fundamental or otherwise, must necessarily be such as would strengthen the position of the masses against the vested interests and reactions as well as their struggle for a better life and social progress. Whether the issue is one of rights or duties, the correct answer can be found only from this popular and democratic approach.

16 DIRECTIVE PRINCIPLES

The Constitution-framers were anxious to establish a welfare state, but due to certain limitations and conditions of the country, they were not in a position to establish a fully welfare state forthwith. So in order to keep the government on the right track and make a sincere effort towards the establishment of a welfare state, they formulated certain principles to guide the government, no matter to whatever party it may belong, in the right direction. These principles are called Directive Principles of State Policy. They can be classified under the following four heads:

(a) Socialistic Principles

- (1) Adequate means of livelihood for all citizens
- (2) Fair distribution of wealth and material resources among all classes and to prevent concentration of wealth in a few hands
- (3) Equal pay for equal work for men as well as women
- (4) To secure just and humane conditions of work and maternity relief

(b) Gandhian Principles

- (1) To organize village panchayats and to endow them with such powers and authority as may be necessary to enable them to function as units of self-government

- (2) To promote cottage industries on individual or co-operative basis in rural areas.
- (3) To safeguard and promote the educational and economic interests of the scheduled castes and scheduled tribes.
- (4) To bring about the prohibition and consumption of intoxicating liquor
- (5) To organise agriculture and animal husbandry on modern and scientific lines and in particular prohibit slaughter of cows

(c) Liberal Principles

- (1) To secure uniform and liberal code of law for all citizens of India
- (2) Free and compulsory education up to the age of 14 years
- (3) To separate the judiciary from the executive.
- (4) To raise the standard of nutrition and standard of living of the people
- (5) To protect monuments of historical and national interest
- (6) Equal justice and free legal aid to economically backward classes
- (7) Participation of workers in management of organisations engaged in any industry
- (8) Promotion and improvement of environment and safeguarding of forests and wild life

(d) Principles relating to the International Peace and Security

(I A S Main, 1979)

- (1) To promote international peace and security
- (2) To maintain just and honourable relations between nations
- (3) To foster respect for international law and treaty obligations
- (4) To encourage settlement of disputes by arbitration

Difference between Fundamental Right and Directive Principles

(I A S, Main 1987)

- (1) Fundamental Rights are enforceable in the courts of law, while Directive Principles cannot be so enforced.
- (2) While Fundamental Rights constitute limitations upon state action, the Directive Principles are in the nature of instructions to the Government to achieve certain ends by their decisions.

- (3) Judiciary can declare any law void on the ground that it contravenes any of the Fundamental Rights, while the same is not the case with the Directive Principles
- (4) In the case of conflict between the Fundamental Rights and the Directive Principles, the former prevail.

Precedence of Directive Principles over Fundamental Rights (I A S. Main, 1987)

As stated above, originally Directive Principles were made subservient to the Fundamental Rights. This means that if they came in conflict with the Fundamental Rights, they were declared void to that extent. As this greatly stood in the way of Government's ambition to establish a socialistic society in the country, it carried out certain amendments to the Constitution with a view to accord position of precedence to Directive Principles over Fundamental Rights.

The first step in rectifying this situation was taken when the Twenty-fifth Amendment (1971) provided that a law enacted by Parliament for the purpose of implementing a 'directive' given in Art 39 could not be struck down on the ground that it contravened a Fundamental Right. The Forty-second Amendment (1976) completed the process by extending primacy to all Directive Principles. With these changes in the Constitution, the Directive Principles were made truly 'fundamental' in the governance of the country. It was provided that any law passed by any legislature, whether Central or State, with a view to implementing the Directive Principles cannot be challenged on the ground that it goes against any of the Fundamental Rights guaranteed.

An attempt made by the 45th Amendment to restore the position prior to the 42nd Amendment could not succeed as the Rajya Sabha made an amendment. However, the Supreme Court struck down Article 31 (C), establishing primacy of all Directive Principles over Fundamental Rights. As the position now stands, Article 31 (C) protects law made in contravention of the Fundamental Rights of Equality and Personal Freedoms (Art 14 and 19).

Implementation of Directive Principles (I A S. Main 1987)

A summary statement on the adequacy of implementation may not be justified. Some principles, e.g., equal pay for men and women, free legal aid, reorganisation of village panchayats, participation of workers in management, promotion of educational and economic interest of weaker sections, organisation of agriculture on modern lines, protection of ancient monuments, etc., have been implemented satisfactorily.

Exercises

1. Bring out the significance of the Fundamental Rights provided in the Constitution of India. The right to acquire, hold and dispose of property has ceased to be a fundamental right. Examine the purpose of the change involved, *(I.A.S. Main, 1981)*
2. Explain the concept of minorities in the Indian Constitution and mention the safeguards provided therein for their protection. *(I A S. Main, 1988)*
3. Indicate the nature of the Fundamental Duties inserted in our Constitution. *(I.A.S. Main, 1982; 80)*
4. Write a short note on Directive Principles of State Policy. *(I.A.S. Main, 1979)*
5. Differentiate between the Fundamental Rights and the Directive Principles. Do you think that the latter have been adequately implemented? Give reasons for your view. *(I A.S. Main, 1982)*
6. Briefly mention why and how the chapter on the Directive Principles gained precedence over the chapter on the Fundamental Rights in the Indian Constitution? *(I A.S. Main, 1987)*

THE UNION EXECUTIVE

1. THE PRESIDENT

Position of the President

In the Constitution of India, there is placed at the head of the Indian Union a functionary who is called the President of the Union. He is the Supreme Executive Authority of the Union. He is the head of the State. The entire administration is run in his name. But he is the nominal head of the State. There is a parliamentary system in India and the President exercises his powers on the advice of the Council of Ministers. Therefore, both the President and the Council of Ministers form the federal executive.

(I.A.S Main, 1982)

Comparison between Indian President and American President

In the Constitution of India, there is placed at the Head of Indian Union a functionary, who is called the President of the Union. He is the Supreme Executive authority of the the Union. However, except the identity of name, nothing is common between Indian President and the American President. The main points of difference are :

(1) As stated above, under the presidential system of America, the President is the chief head of the Executive. The Administration is vested in him. He combines in his person two offices of the King and the Prime Minister. In the Indian Constitution, the President occupies the same position as the King under the English Constitution. He is the head of the State but not of the Executive.

(2) Under the American Constitution, the President has under him Secretaries in charge of different departments. In the like manner our President has under him Ministers in charge of different departments of administration. Here again there is a fundamental difference between the two. The President of the United States is not bound to accept any advice tendered to him by any of his Secretaries. The President of the Indian Union is bound by the

advice of his Ministers. He can do nothing contrary to their advice nor can do anything without their advice.

(3) The President of the United States can dismiss any Secretary at any time. The President of the Indian Union has no power to do so, so long as his Ministers command a majority in the Parliament.

(4) The Presidential system of America is based upon the separation of the Executive and the Legislature, so that the President and his Secretaries cannot be the members of the Congress. The Indian Constitution does not recognise this doctrine. The Ministers under the Indian Union are Members of Parliament. Only Members of Parliament can become Ministers.

(5) The American President possesses the power of control and supervision over the departments of the Government, but Indian President does not exercise any such power. He is only the formal head of the State.

(6) The American President is elected directly by an electoral college which itself is elected by the electorates for this purpose, but the Indian President is elected indirectly by the elected members of both Houses of Parliament and the elected members of State Legislature.

(7) The American President possesses the power of filling about 20% of the federal civil offices without consulting the Civil Service Commission as a reward for party allegiance. This is called the spoils system. The Indian President does not possess any such power.

(8) The American President is not responsible for his acts to the American Congress (Legislature). The Indian President is also not directly responsible to the Indian Parliament, but for his acts the Council of Ministers is collectively responsible to the House of the People.

Election of President

(IAS, 1969)

For election as the President of India, a person must be

- (i) a citizen of India,
- (ii) not less than 35 years of age,
- (iii) qualified for election as Member of Lok Sabha,
- (iv) not holding any office of profit under the government, and
- (v) not a Member of Parliament.

The provision regarding holding of office, however, is not applicable to a person who holds the office of the President, Vice-

President, Speaker of Lok Sabha, Governors and Ministers of the Central and State Governments.

Method of Election

The President is elected indirectly by an electoral college consisting of the elected members of the Lok Sabha, the elected members of Rajya Sabha and the elected members of State Legislative Assemblies (but not the Union Territories). The election is held in accordance with the system of proportional representation by means of a single transferable vote. Voting is by secret ballot.

Voting

According to Art. 55 of the Constitution, as far as possible, there shall be uniformity in the scale of representation of different States for the election of the President. In order to secure such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes, which each elected member is entitled to cast, shall be determined in the following manner :

- (a) Every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of elected members of the Assembly
- (b) If, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member under the sub-clause (a) should be further increased by one
- (c) Each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of legislative assemblies of states, by the total number of elected members of both Houses of Parliament, fraction exceeding one-half being counted as one and other fraction being disregarded.

Term of Office

The President holds office for a period of five years from the day on which he enters upon his office. He is eligible for re-election.

Disputes about Election

(I.A.S, 1969)

All disputes arising out of the election of the President are referred to the Supreme Court.

2. LEGISLATIVE POWERS OF THE PRESIDENT

(1) **The Power to Summon, Prorogue and Dissolve :** The President can summon and prorogue either House of Parliament or dissolve the Lower House. The power to summon Parliament is, however, subject to the condition that not more than six months shall intervene between the two sessions. The President can also summon a joint sitting of both Houses of Parliament in case of the deadlock between them.

(2) **The Opening Address :** The President may address both Houses of Parliament assembled together at the commencement of the first session after each general election to Lok Sabha and the commencement of the first session every year. This power is utilised by the Cabinet to announce the Government policies.

(3) **The right to address and send Messages :** The President has also the right to address either House of Parliament or both of them assembled together, and the right to require their attendance. The President can also send messages to either House of Parliament in regard to any bill pending in Parliament or to any other matter, and the Parliament must consider the message "with all convenient despatch".

(4) **Laying Reports Before the Parliament :** The President has power to cause the following reports laid before the Parliament so that Parliament may have the opportunity to take action on them :

- (i) Annual Financial Statement and Supplementary Budget, if any
- (ii) Report of the Comptroller and Auditor-General of India relating to the accounts of the Government of India
- (iii) Report of the Finance Commission, together with Financial Memorandum, indicating action taken on its recommendations
- (iv) Annual Report of the Union Public Service Commission, explaining reasons, where an advice of the Commission has not been accepted.
- (v) Report of the Commission for Scheduled Castes and Scheduled Tribes.
- (vi) Report of the Commissioner for Backward Classes
- (vii) Report of the Special Officer for Linguistic Minorities

(5) **Previous Sanction to Legislation :** There are certain bills, which cannot be introduced in Parliament without the previous sanction or recommendations of the President. Such bills are :

- (i) a bill for the creation of new States or reorganisation of existing States ,
- (ii) a money bill ;
- (iii) a bill involving expenditure from Consolidated Fund of India ,
- (iv) a bill effecting taxation in which States are interested ; and
- (v) a bill imposing restrictions on freedom of trade and commerce

(6) **Assent to Legislation and Power of Veto** . After a bill is passed by both Houses of Parliament, or at a joint sitting, it is presented to the President for assent. The President can assent, withhold assent or he can return a bill without assent for reconsideration with a message. If, however, the two Houses pass the bill again with or without amendments and the bill is presented to the President, he cannot withhold assent from the bill.

(7) **Nomination Power** The President nominates 12 members to Rajya Sabha from persons having special knowledge of arts, science, literature or social services. He also nominates 2 Anglo-Indian members to Lok Sabha if, in his opinion, that community is not adequately represented.

(8) **Issue of Ordinances** . When the Parliament is not in session and the President is satisfied that circumstances exist, which render it necessary for him to take immediate action, he may promulgate an Ordinance, which has the same force and effect as the law of Parliament subject to the following conditions

- (i) This power should be exercised by the President on the advice of the Council of Ministers
- (ii) The Ordinance must be laid before the Parliament when it re-assembles. It shall automatically cease to have effect on the expiry of 6 weeks from the date of re-assembly, unless approved earlier.
- (iii) Such ordinance must be within the ambit of the Parliament's jurisdiction
(I A S Mam, 1981)

3 FINANCIAL POWER OF THE PRESIDENT

- (1) No money bill can be introduced in Parliament without President's previous sanction.
- (2) The Contingency Fund of India is at his disposal and he can make advances out of it to meet unforeseen expenditure, pending authorisation by the Parliament.
- (3) The President has the power to determine the States' share of

proceeds of the income-tax and the amount of yearly grant-in-aid to certain States (4) He can appoint Finance Commission, every fifth year, to make recommendations on the Union-State financial relations

4. JUDICIAL POWERS OF THE PRESIDENT

The President is empowered to pardon offenders or to remit, suspend or commute their sentences This happens in cases

- (i) where the punishment or sentence is by a court martial ,
- (ii) where it is against an offence, against a law relating to a matter to which the executive power of the Union extends , and
- (iii) where it is a sentence of death

5 EXECUTIVE POWERS OF THE PRESIDENT

- (1) The President is the executive head of the Sovereign, Socialist, Secular, Democratic Republic of India
- (2) He is *ex-officio* Supreme Commander of the Defence Forces He can declare war and make peace
- (3) He makes all important appointments such as those of the Governors, Chief Justice, Prime Minister and Union Ministers
- (4) He governs the Union Territories through Chief Commissioners or Lieutenant Governors, etc (I A S. Main, 1981)

6 EMERGENCY POWERS OF THE PRESIDENT

Under the Indian Constitution, the President can suspend the whole Constitution or some Articles of it under emergency conditions arising out of •

- (i) threat to the security of India, or any part thereof, by war, external aggression or armed rebellion
- (ii) failure of constitutional machinery in a State , and
- (iii) financial emergency (I A S. Main, 1985)

7 PROCLAMATION OF EMERGENCY

Under Art 352 (1) of the Constitution, if the President is satisfied that the security of India or any part thereof is threatened by war, external aggression or armed rebellion, he can, by proclamation make a declaration to that effect in respect to the whole of India or of such part of the territory thereof as may be specified in the Proclamation The President shall not issue such a proclamation

unless decision of the Union Cabinet that such a proclamation may be issued has been communicated to him in writing. Such a proclamation can be made even before the actual war, external aggression or rebellion if the President is satisfied that there is imminent danger thereof

Effects of the Proclamation of Emergency

During the proclamation of Emergency :

- (1) The Union Government can give directions to any State as to the manner in which the executive power thereof is to be exercised.
- (2) The legislative jurisdiction of the Union Parliament is widened and it acquires the power to legislate on any subject included in the State List. But such emergency legislation ceases to have any effect at the expiry of 6 months after the proclamation of emergency ceases to operate
- (3) The Fundamental Rights guaranteed under Art. 19 of the Constitution, i.e., right to freedom of speech, assembly, movement, residence, association and profession, remain suspended
- (4) The President has the power to suspend the right to move courts for the enforcement of any of the Fundamental Rights for a period not exceeding the proclamation of emergency
- (5) The President will have the power to suspend the application of provisions regarding distribution of revenues between the centre and the states for a period not beyond the expiry of the financial year in which the proclamation ceases to be effective.
- (6) The normal life of 5 years of Lok Sabha may be extended by Parliament by law for a period of not exceeding one year at a time and not extending in any case beyond a period of 6 months after the proclamation ceases to exist

Duration : A Proclamation of emergency ceases to operate at the expiry of one month, unless before the expiration of that period, it has been approved by the Parliament.

If, however, the proclamation was issued, when the Lok Sabha was dissolved or dissolution took place during the period of one month mentioned above and the Rajya Sabha has approved it by a Resolution, the proclamation will cease to operate at the expiry of 30 days from the date on which Lok Sabha first sits after reconstitution, unless the proclamation is approved by it in the meantime.

8 FAILURE OF CONSTITUTIONAL MACHINERY IN A STATE

Under Article 356, the President is empowered to make a proclamation of failure of constitutional machinery in a State, if—

- (a) he is satisfied, on receipt of a report from the Governor of the State or otherwise, that the Government of the State cannot be carried on in accordance with the provisions of the Constitution ; or
- (b) a State fails to comply with or give effect to any direction given by the Union Government in exercise of its executive rights.

Its Effects . In the case of failure of constitutional machinery in a State—

- (1) The President can assume to himself all or any of the functions of the Government of the State including the powers of the governor or any other authority in the State
- (2) He can declare that the powers of the State Legislature shall be exercisable by or under the authority of the Parliament
- (3) He can suspend any part of the Constitution relating to anybody or authority in the State. The only exception is that he cannot assume any power vested or exercisable by a High Court nor can he suspend the operation of any provision of the Constitution relating to High Courts.
- (4) If the Lok Sabha is not in session, expenditure from the Consolidated Fund of the State can be authorised by the President pending its sanction by the Parliament.
- (5) The President may promulgate an ordinance for the administration of the State when the Parliament is not in session

Duration A proclamation regarding the failure of the constitutional machinery in a State ceases to operate at the expiry of two months unless, before the expiration of that period, it has been approved by Parliament. If, however, the proclamation was issued when the House of the People was dissolved, or dissolution took place during the two months referred to above, and the Council of States approved it by a Resolution, the proclamation will cease to operate at the expiry of 30 days from the date on which the House of People first sits after its reconstitution unless the proclamation was approved earlier. The two months' duration of proclamation can be extended for a period of six months at a time, subject to a maximum of three years

9 FINANCIAL EMERGENCY

The President is empowered to make a declaration of Financial Emergency whenever he is satisfied that the financial stability or credit of India or any part thereof is threatened.

Its Effects When a proclamation of Financial Emergency is in operation, the executive authority of the Union extends to giving directions to any State

- (i) to observe such canons of financial propriety as may be specified in the directions ;
- (ii) to reduce the salaries and allowances of all or any class of persons serving in connection with the affairs of the State or Union, including the Judges of Supreme Court and High Courts ,
- (iii) and to require that all Money Bills and other financial bills be reserved for consideration by the President, when passed by the State Legislature *(I A S Mam, 1987)*

10 IMPEACHMENT OF PRESIDENT

The President of India can be removed from his office before the expiry of his normal term through the process of impeachment. Impeachment proceedings can be instituted against the President only on grounds of violation of the Constitution. For this purpose the charges shall be preferred by either House of Parliament in the form of a resolution passed by two-thirds majority of the total membership of the House. However, a fourteen days' notice must be given to the President in writing by not less than one-fourth of the total number of members of the House, regarding their intention to move the resolution. When the charge has been preferred by one House, the other House shall investigate the charge or cause the charge to be investigated, and the President shall have the right to appear and to be represented at such investigation. If, as a result of the investigation, a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charges preferred against the President have been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so passed.

11 VACANCY OF PRESIDENT

If the office of President falls vacant due to death, resignation or removal of the President, fresh elections must be held within six months of the occurrence of the vacancy. The person elected to fill the vacancy is entitled to hold the office for the full term.

of five years from the date on which he enters upon his office. During the interval between the date of vacancy and the date when the new President assumes office, the Vice-President of India acts as the President. Similarly, if the President is unable to discharge his functions owing to absence, illness or any other reason, the Vice-President discharges his functions until the date on which the President resumes his duties. While the Vice-President acts as the President or discharges the functions of the President, he enjoys all the powers and immunities of the President and is entitled to such emoluments, allowances and privileges as are enjoyed by the President.

It may be noted that if per chance the Vice-President is not available to discharge the duties of the President, the Chief Justice of India and, in his absence, the seniormost judge of the Supreme Court acts as the President. For example, after the death of Dr. Zakir Hussain, the then Vice-President V. V. Giri acted as President. But subsequently he resigned from both the offices to contest for the office of President. At that juncture, the then Chief Justice of India M. Hidayatullah discharged the functions of the President of India.

12. VICE-PRESIDENT

Article 63 of the Constitution lays down that there shall be a Vice-President of India. Like the President of India, the Vice-President is also elected indirectly by an electoral college. Whenever the office of the President falls vacant due to death, resignation or removal of the President, the Vice-President acts as the President. However, he acts for a limited period until the date on which a new President is elected in accordance with the provisions of the Constitution.

Qualifications

A candidate for the office of the Vice-President must possess the following qualifications :

- (1) He should be a citizen of India.
- (2) He should have completed the age of 35 years.
- (3) He should be eligible to be elected as a member of the Rajya Sabha.
- (4) He must not hold any office of profit under any Government—Central, State or Local. For the purpose of this provision, the Constitution lays down that the office of the President or Vice-President, Governor of a State or Minister of the Union or State Governments, shall not be considered offices of profit.

The Vice-President cannot be a member of either House of Parliament or of a State Legislature. If he is a member of either

of these Houses at that time, when he is elected as Vice-President, his seat in that Legislature is declared vacant from the date he takes over as Vice-President

Election

The Vice-President of India is elected by an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of single transferable vote and the voting at such election shall be by secret ballot. The two Houses need not sit together for this purpose (Eleventh Amendment)

It is significant to note that in the election of the Vice-President, nominated members of both the Houses have the right to vote while in the election of the President only the elected members of Parliament are eligible to vote. According to the Eleventh Amendment to the Constitution (1961), election of the President or Vice-President is not to be questioned on the ground that there was a vacancy in the Electoral College

Term of Office

The Vice-President is elected for a term of five years. The period of five years starts from the date on which he enters upon his office. The Vice-President may resign from his office by writing to the President before the expiry of five years

Removal

The Vice-President can be removed from office if a resolution to that effect is passed by the Rajya Sabha by a majority of its members, and the resolution is approved by the Lok Sabha. Fourteen days' notice is necessary for moving such a resolution

Functions

As Vice-President : In the absence of the President or during casual vacancy in the office of the President, the Vice-President shall perform all the functions of the President. If the President is unable to discharge his functions owing to his absence, illness or any other cause, the Vice-President will discharge his functions until the date on which the President resumes his duties. Under such circumstances -

- (1) The Vice-President performs the duties of the President
- (2) The Vice-President has the authority to exercise all the powers concerning the office of the President
- (3) He can remain for a period of six months in the office of the President in the case of the President's resignation, death or removal from office. He cannot continue in the office of the President beyond this period

- (4) The Vice-President can himself contest for the Presidency of the country.
- (5) The office of Vice-President is next to the office of President of the country. But the Vice-President of the country has no functions to perform as Vice-President of the country. He has to perform the functions of the state only in the absence of the President. It is only an office of pride and honour. However, the Vice-President has a role to play in his capacity as the chairman of the Rajya Sabha.

As Chairman of Rajya Sabha Vice-President is the *ex-officio* chairman of Rajya Sabha. That means that being the Vice-President of the country, he is the Chairman of Rajya Sabha. He performs the following functions as the Chairman of the Rajya Sabha :

- (1) He presides over the meetings of Rajya Sabha.
- (2) He maintains decorum and decency in the House.
- (3) He allots time to the members to speak
- (4) He is not a member of Rajya Sabha. Therefore, he is not entitled to cast the vote but in case of a tie, he makes use of his casting vote

The Vice-President cannot preside over the meetings of Rajya Sabha when :

- (a) he is acting as the President of the country, and
- (b) when the Rajya Sabha is considering charges against him

Position of Vice-President

The office of the Vice-President is a stand-by office. No doubt his office is next to the office of the President of India but he does not exercise any powers. The American Vice-President enjoys the remaining tenure of President in the case of President's death or resignation or removal but in India under such circumstances, the Vice-President works only as the acting President. As acting President, the Vice-President enjoys all the privileges and powers of the President. When a vacancy is caused in the office of President, the new President is to be elected within six months. As such the office of Vice-President is not of much importance. However, much depends upon the personality of the person who becomes the Vice-President. A person with a powerful personality can become a very useful part of the administration.

13. PRIME MINISTER

Under the Parliamentary System of Government adopted in India, though formally all the executive powers of the Union

Government are vested in the President, in reality these powers are exercised by the Council of Ministers under the leadership of the Prime Minister. The office of the Prime Minister in India has a constitutional basis and is not based on conventions as in England. Article 74(1) clearly mentions that there shall be a Council of Ministers *with the Prime Minister at the head* to aid and advise the President. The position of the Prime Minister has been made effective under the Forty-Second Amendment which provides that it shall be obligatory for the President to accept the advice of the Council of Ministers.

Appointment

The Prime Minister is appointed by the President. However, it does not mean that the President is free to appoint any one as the Prime Minister. He has to invite the leader of the majority party in Lok Sabha to become the Prime Minister and under normal circumstances, the appointment of Prime Minister by the President is just a constitutional formality. The President has hardly any discretion in the matter of the appointment of Prime Minister. However, if no ~~angle~~ political party possesses a clear cut majority in the Parliament or there is no acknowledged leader of the majority party, the President may have some discretion in the appointment of the Prime Minister. It may be noted that even under such circumstances the President has to ensure that only such person should be appointed as Prime Minister who, in his opinion, shall be able to muster the support of the majority of the members of Lok Sabha and carry out the policies and programmes of his party.

Term of Office

The Prime Minister holds office during the pleasure of the President, which seems to suggest that the President can remove him at any moment without assigning any reasons. In practice it is not so and the President cannot remove a Prime Minister so long as he enjoys the support of the majority of the members of Lok Sabha. If President, in violation of this principle, dismisses the Prime Minister, it may not be possible for him to find out another person who may be able to secure the confidence of Lok Sabha and form a stable government. Therefore, the term of the Prime Minister is generally equal to the term of Lok Sabha, viz., 5 years. If the term of Lok Sabha is extended, the term of the Prime Minister is automatically extended. Likewise, if Lok Sabha is dissolved earlier than its fixed term, the tenure of the Prime Minister is automatically cut short. In short, it can be said that the term of the Prime Minister is co-terminus that with of Lok Sabha.

Oath

Before assuming his office the Prime Minister has to take oaths of office and secrecy like other members of the Council of Ministers.

These oaths are administered to him by the President. In the oath of office he expresses faith in and allegiance to the Constitution of India and undertakes to uphold the sovereignty and integrity of India and to conscientiously discharge his duties in accordance with the Constitution and the law, without fear or favour, affection or ill-will. In the oath of secrecy he undertakes not to directly or indirectly communicate or reveal to any person or persons any matter which may be brought to his consideration or which may become known to him in his official capacity, except in so far as he is required to do so for the discharge of his duties.

Salary and Allowances

The Prime Minister is entitled to a monthly salary of Rs. 7,500 in addition to other allowances. He is also entitled to a rent-free official residence and office.

Powers

The Prime Minister, as the chief adviser of the President and the Chairman of the Council of Ministers, enjoys extensive powers. The Constitution acknowledges the primary position of the Prime Minister in the Council of Ministers by specifically providing that "there shall be a Council of Ministers with the Prime Minister at its head" to aid and advise the President. Even if the Constitution had not specially assigned a primary position to the Prime Minister, he would have assumed that position in actual practice. Emphasising this point Dr. B.R. Ambedkar told the Constituent Assembly, "there can be hardly any objection to giving statutory recognition to the position of the Prime Minister which has been established for long by convention in England." It is a well-known fact that in parliamentary system of government the Prime Minister is the centre of the executive and imparts content and meaning to the policies of the government. The powers of the Prime Minister can conveniently be studied under the following head.

In Relation to the Council of Ministers As noted above, the Prime Minister occupies a pre-eminent position in relation to the Council of Ministers. The formation of the Council of Ministers starts with the appointment of the Prime Minister and other members of the Council of Ministers are appointed by the President on the recommendation of the Prime Minister. Though technically the power to appoint the members of the Council of Ministers is vested by the Constitution in the President, in actual practice he has hardly any say in the matter. It is the prerogative of the Prime Minister to prepare a list of the ministers to be included in the Council of Ministers and the President formally appoints those ministers.

It is a different matter that the Prime Minister is also not completely free to include any one in the list and has to keep various considerations in mind while formulating the list. For example he has to ensure that various communities, interests, areas etc., find due representation in it. Likewise, he has to pick up all the ministers from the two Houses of the Parliament and accommodate most of the leading members of his party. The previous experience of the persons and their field of specialisation is also taken into account while preparing the list.

Once the Council of Ministers has been constituted, it is the prerogative of the Prime Minister to allocate the portfolios amongst the members. With a view to ensure that the administration is carried on efficiently, the Prime Minister can also reshuffle the Council and re-allocate the portfolios. A minister can stay in the Council of Ministers only as long so he enjoys the confidence of the Prime Minister. In case of differences, the Prime Minister can ask a minister to tender his resignation or ease him out by reshuffling the Council of Ministers. In extreme cases, the Prime Minister can even recommend the dismissal of a minister to the President. It may be noted that the Prime Minister is likely to avoid such extreme action.

The Prime Minister is the Chairman of the Council of Ministers and presides over its meetings. The agenda and the proceedings of the Council of Ministers are also largely determined and regulated by the Prime Minister. Though in the Council of Ministers all decisions are taken by consensus, it cannot be denied that the views of the Prime Minister have a decisive influence on the decisions of the Council of Ministers.

Co-ordination of Administration: As the leader of the Council of Ministers the Prime Minister is responsible for the general co-ordination of the work of various ministers. He exercises general supervision on the working of the various ministries and resolves the inter-departmental disputes. The Prime Minister, with the assistance of the Cabinet Secretariat, ensures that the policies and programmes of various departments do not clash with each other.

In Relation to the President : The Prime Minister is the principal channel of communication between the President and the Council of Ministers. It is a constitutional obligation of the Prime Minister to communicate all the decisions of the Council of Ministers to the President. Similarly, if the President so desires, the Prime

Minister has to submit a matter for the consideration of the Council of Ministers if a decision has been taken by an individual minister but no decision has been taken by the Council of Ministers as such. The Prime Minister is also duty-bound to supply such information to the President regarding proposals of legislation and administration of the Union as the President may desire. It is significant to note that no other member of the Council of Ministers is authorised to make any direct communication with the President.

The Prime Minister also assists the President in making all important appointments and shares the power of patronage. Some of the important appointments made by the President on the recommendations of the Prime Minister include the Chief Justices and Judges of the Supreme Court and the High Courts, Comptroller and Auditor-General, Attorney General, Election Commissioner, Chairman and members of the Union Public Service Commission, Governors, Chiefs of the Army, Navy and Air Force, Ambassadors and High Commissioners and other high officials. It may be noted that as a matter of fact all these appointments are made by the Prime Minister, although they are formally made in the name of the President.

In Relation to Parliament : The Prime Minister is also the chief link between the Parliament and the Council of Ministers. In fact, he is appointed as the Prime Minister because he is the leader of the majority party in the Lok Sabha and he is responsible to the Parliament for all his actions along with other members of his Council of Ministers. As such he has to justify the policy and programmes of the government on the floor of the Parliament. All important policy announcements in the Parliament are made by the Prime Minister. He also offers clarifications on matters pertaining to policy. He also comes to the rescue of other ministers in the Parliament when they are in a tight corner and defends their actions in the Parliament. This is essential in view of the principle of 'collective responsibility' on which the Council of Ministers works. The sessions of the Parliament are summoned and prorogued by the President on the advice of the Prime Minister. The Prime Minister also reserves the right to advise the President about the dissolution of the Lok Sabha. In exercise of this power the Lok Sabha was dissolved in 1971 as well as 1979 on the recommendations of the then Prime Ministers viz , Mrs Indira Gandhi and Ch Charan Singh.

Conduct of International Relations . The Prime Minister also plays an important role in the conduct of India's international relations. Generally the Prime Minister keeps the portfolio of external affairs with him. Even if some other Minister is in charge of this department, he works in complete

co-operation with the Prime Minister and keeps him posted with all the developments. The Prime Minister represents the country at the various international conferences. In short, the Prime Minister plays a vital role in the conduct of country's international relations.

Leader of the Party : Finally, the Prime Minister is an important leader of the party and greatly influences its working and decisions. He keeps in constant touch with the other important members of his party to ensure the party solidarity and support, for he knows it too well that his existence in office depends on the support of the party. Often the Prime Minister also acts as the President of the party. It is a well-known fact that at times Prime Ministers like Jawaharlal Nehru, Mrs. Indira Gandhi, Charan Singh and Rajiv Gandhi were also the Presidents of their respective political parties.

Position of the Prime Minister

A perusal of the powers of the Prime Minister clearly demonstrates that he enjoys tremendous power and influence both in the executive and the legislative sphere. As Chairman of the Council of Ministers he plays a decisive role in the formulation and implementation of the policy by the various ministries. The nominal or constitutional position of the President of India under the Indian political system further adds to the powers and prestige of the Prime Minister. In fact all the powers vested in the President under the Constitution are exercised by the Prime Minister. In this respect the position of the Prime Minister of India very much resembles the position of the Prime Minister in Great Britain and all those epithets which are used for the British Prime Minister are applicable to him as well. Some of these epithets are *primus inter pares* (first amongst equals), 'steersman of the ship of the state', 'the moon among the lesser stars' and 'sun around which all other planets revolve'. In fact, the position of the Indian Prime Minister is superior to the position of the British Prime Minister in so far as his office enjoys a constitutional basis and is not a product of the Conventions.

The position of the Indian Prime Minister does not entirely rest on the various powers bestowed by the Constitution. To a large extent it depends on his personality and prestige and the support he can muster within his party. Persons with magnetic personalities like Jawaharlal Nehru and Mrs. Indira Gandhi enjoyed greater prestige in comparison to the other occupants of this office. Similarly, if the Prime Minister's party enjoys a clear-cut majority in the Parliament and he has a hold on the party, he may even wield dictatorial powers. The case of Mrs.

Indira Gandhi after 1971 elections and of Rajiv Gandhi after 1984 elections is a clear proof of this. Hence we can say that the position of the Prime Minister to a large extent depends on his personality and his hold on the party.

14. COUNCIL OF MINISTERS

The Constitution of India provides for a Parliamentary System of Government in which the President is only a nominal or constitutional ruler and the real executive authority of the Union is exercised by the Council of Ministers. Article 74 of the Constitution concerned with the Council of Ministers provides : " There shall be a Council of Ministers with the Prime Minister as the head to aid and advise the President who shall, in the exercise of his functions act in accordance with such advice." It may be noted that the original Constitution was absolutely silent on the point whether the President was bound by the advice of the Council of Ministers or not. However, generally the President acted on the advice of the Council of Ministers in keeping with the conventions of Parliamentary Government. This convention was given a formal statutory status by the Forty-Second Amendment, which made it obligatory for him to act on the advice of the Council of Ministers.

Composition

The Council of Ministers consists of the Prime Minister and such other Ministers as may be considered desirable by the Prime Minister keeping in view the requirements of the time. Generally, the Council of Ministers consists of about 50 to 60 members. The formation of the Council of Ministers starts with the appointment of the Prime Minister. The other members of the Council of Ministers are appointed by the President on the advice of the Prime Minister. It may be noted that the President has very little discretion in the selection of the Prime Minister. He has to invite the leader of the majority party in Lok Sabha for this purpose. But if no single party possesses a clear-cut majority in the Lok Sabha, the President may be able to exercise some discretion in the selection of the Prime Minister. But in the appointment of other Ministers the President has to go by the recommendations of the Prime Minister. The Prime Minister also has to keep in view a number of factors while recommending the names of the members of the Council of Ministers. He has to ensure that all prominent leaders of his party, various interests, communities, states etc., get due representation in his Council of Ministers. Another limitation on the Prime Minister is that he has to include only those persons in his Council of Ministers who are members of either House of Parliament. If any such person is included as a member of the Council of Ministers, who is not a member of the Parliament at the time of his appointment, he has to secure the membership of either of the two Houses within six months,

otherwise he ceases to be a member of the Council of Ministers at the expiry of this period.

The members of the Council of Ministers hold office during the pleasure of the President. However, the Council as a body is collectively responsible to the Lok Sabha. This implies that the President may remove an individual Minister but he cannot dismiss the Council of Ministers as a whole. The Council holds office as long as it enjoys the support of the majority of the members of Lok Sabha. It is not essential that when a vote of no-confidence is passed against the Council of Ministers, it must quit office immediately. It can as well advise the President to dissolve the Lok Sabha and order fresh elections to seek a fresh mandate from the people. The Council of Ministers works on the principle of collective responsibility and its members swim or sink together. A vote of no-confidence against any Minister, on an issue of policy, is taken as a vote of no confidence against the entire Council of Ministers.

The Council of Ministers and Cabinet

Though the Council of Ministers and the Cabinet are often treated as identical, they differ from each other. The Council of Ministers is a much wider body consisting of about 50 to 60 ministers, as against the Cabinet which consists of 15 to 20 more important ministers who constitute the Cabinet. The Council of Ministers does not meet as a body to transact Government business. It is the Cabinet which meets for the purpose and works on the principle of collective responsibility of its members. Generally, the ministers heading more important departments like Finance, Home, Defence, Foreign Affairs, Railways, etc., are members of the Cabinet while the less important ministers are members of the Council of Ministers. In India the Council of Ministers generally consists of three categories of ministers, viz., Cabinet Ministers; Ministers of State and Deputy Ministers. In addition, there are certain Parliamentary Secretaries who are appointed by the Prime Minister. Only the first category of the Ministers constitute the Cabinet, while all the ministers taken together constitute the Council of Ministers.

Oath

Before entering upon their office the Prime Minister and other members of the Council of Ministers have to take an oath of office and secrecy. The oath of office reads

“I, A B., do swear in the name of God that I will bear true-
solemnly affirm

faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for

the Union and, that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will."

The oath of secrecy to be undertaken by a member of the Council of Ministers reads :

I, A B, do swear in the name of God that I will not
solemnly affirm

directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister "

Salary and Allowances

The salary and allowances of the members of the Council of Ministers have not been fixed by the Constitution and have been left to the Parliament. Article 75(6) lays down that "the salaries and allowances of Ministers shall be such as Parliament may from time to time by law determine and until Parliament so determines, shall be as specified in the Second Schedule. At present the members of the Council of Ministers with Cabinet rank get monthly salary of Rs. 3000 plus Rs 500 as allowance. The Ministers of State get Rs 3000 and the Deputy Ministers get still lower salary. It may be noted that the Ministers do not get any allowance as Members of Parliament. (These salaries have since been revised).

Meetings of the Council of Ministers

The Council of Ministers does not hold frequent meetings. The real business is transacted by the Cabinet presided over by the Prime Minister, which holds its meetings at least once a week. In the meetings of the Cabinet only the Cabinet Ministers are present. The Ministers of State are permitted to attend its meetings only when the Cabinet is discussing a matter pertaining to that Ministry. Sometimes even the Chief Ministers of States and members of the Planning Commission are also invited to attend the meetings of the Cabinet when their presence is felt desirable. In the absence of the Prime Minister the meetings of the Cabinet are presided over by the Deputy Prime Minister (if there is one) or the senior-most Minister. Decisions at the Cabinet meetings are generally taken by consensus. In view of the secret nature of the proceedings of the Cabinet, the proceedings are generally not reduced to writing.

Functions of Council of Ministers

Constitutionally all the executive authority of the Union Government is vested in the President and the Council of Ministers is there simply to aid and advise the President in the exercise of his

functions. But in reality, all these powers are exercised by the Council of Ministers on behalf of the President, who merely acts as a nominal or constitutional executive head of the Union. The powers of the Council of Ministers are indeed extensive and can be studied under the following heads :

Executive Functions : One of the major executive functions of the Council of Ministers is the formation of the executive policy of the country on the basis of which the administration of the country is to be carried on. Once the policy has been formulated and duly approved by the Parliament, the members of the Council of Ministers try to give it a practical shape. Each member of the Council of Ministers is in charge of one or more departments and is responsible for its smooth and efficient working. The Minister in charge of a department is free to take decisions on routine matters, although the policy matters are decided by the Council of Ministers as a whole. Sometimes the Ministers may take policy decisions also but these must be approved by the Council of Ministers subsequently.

The Council of Ministers or the Cabinet acting on its behalf, tries to coordinate the policies, programmes and activities of the various ministers. The necessary supervision over the working of the various Ministries is exercised through the Cabinet Secretariat. The Council of Ministers also plays an important role in filling up various political, judicial and ambassadorial appointments. All these appointments are effected by the President on the advice of the Council of Ministers, which is generally routed through its leader, the Prime Minister. The various awards and distinctions for meritorious services in different fields are also bestowed by the President on the advice of the Council of Ministers. The reports of the various Commissions and Committees are also considered by the Cabinet before these are presented in Parliament.

Legislative Functions : In the formulation of the legislative programme of the country also the Council of Ministers plays an important role. Almost all the important bills and resolutions are introduced in the Parliament by the members of the Council of Ministers, who also pilot them through the Parliament. With the support of the majority of the members of the Parliament at its disposal, it hardly faces any difficulty in getting these measures through. In fact all the proposals initiated by the Council of Ministers are readily accepted by the Parliament. Even the proposals mooted by the private members of the House have a chance of reaching the statute book only if the Ministry extends its support to them. In the face of Ministerial opposition they are bound to be defeated by the Parliament.

Financial Functions. The budget of the country, showing estimated income and expenditure for the ensuing year, is also prepared by the Council of Ministers and presented to the Parliament for its approval. It may be noted that the Constitution specifically provides that no money bill can be introduced in the Parliament without the recommendation of the President. This clearly implies that all money bills can be introduced in Parliament by the members of the Council of Ministers alone. While formulating the budget proposals the Council of Ministers is entirely free to determine as to what taxes are to be levied and how the funds of the Union Government are to be spent. Though formally Parliament reserves the right to modify the recommendations of the Council of Ministers with regard to revenue and expenditure, in actual practice this can be done only with the consent of the Ministry. Any effort to force such a modification on the Ministry is taken as vote of no-confidence in the ministry and may entail its resignation or even recommendation for the dissolution of the Parliament.

Foreign Relations In the field of foreign relations also the Council of Ministers plays an important role. It determines the foreign policy of the country and decides what type of relations she should have with other countries of the world. All the international treaties and agreements are considered and approved by the Council of Ministers. Similarly, all the ambassadorial appointments and questions regarding recognition of States are also decided by the Council of Ministers.

It is thus evident that the Council of Ministers enjoys far-reaching powers both with regard to the formulation and implementation of internal as well as external policies of the country.

Relations with President

Any study of the powers and position of the Council of Ministers shall be incomplete without taking into account its relations with the President and the Parliament. As already pointed out, though the Council of Ministers has been provided to aid and advise the President in the discharge of his official duties, the powers of the President are actually exercised by it. Though initially it was not obligatory for the President to act on the advice of the Council of Ministers, the Forty-second Amendment has made it so. This made a substantial change in the position of the President vis-à-vis the Council of Ministers. The new position had met with criticism at the hands of scholars and politicians. For example V. V. Giri, ex-President of India, disapproved of this change and pointed out "Our Constitution in 1976 makes an explicit provision compelling the

President to act in accordance with the advice of the Ministers who continue in office during the President's pleasure. If this provision continues to exist even now, and the people want it that way, it will be in the fitness of things to go in for Presidential form of government, as otherwise this office becomes a drain on the public exchequer "

The Janata Government sought to restore some power to the office of the President by further amending the Constitution and providing that the President may require the Council of Ministers to reconsider the advice tendered to him either generally or otherwise. But after the Council of Ministers tenders him the necessary advice after reconsideration, the President has to act on it. It cannot be denied that even after this change, the Council of Ministers continues to enjoy a dominant position.

In the composition of the Council of Ministers, the President has an important role. He appoints Prime Ministers. However, in actual practice he does not enjoy much of discretion in the appointment of the Prime Minister. He has to invite the leader of the majority party in the House of the People (Lok Sabha) to form the ministry. The other members of the Council of Ministers are appointed by the President on the recommendation of the Prime Minister. The President may exercise discretion in the appointment of the Prime Minister if no political party enjoys a clear-cut majority in the House. For example, after the resignation of Morarji Desai as Prime Minister, President Neelam Sanjiva Reddy used his discretion and invited first Y B Chavan and then Charan Singh to form the ministry. After the death of Mrs. Gandhi, Gyan Zail Singh appointed Rajiv Gandhi as Prime Minister, even before he was not formally elected as leader of the Congress Parliamentary Party.

It is obligatory on the part of the Prime Minister to communicate all the decisions of the Council of Ministers to the President. On his part the President has the power to ask the Council of Ministers to reconsider any matter and the Prime Minister is duty bound to submit the same for recommendation to the Council.

Under the Constitution the members of the Council of Ministers hold office during the pleasure of the President, which seems to suggest that the President can remove or dismiss any minister at will. But in reality the Council of Ministers works on the principle of collective responsibility to the Lok Sabha, which implies that it stays in office as long as it enjoys the confidence of the majority of the members of the Lok Sabha and the President has no right to dismiss any ministry which enjoys such a support. Even the individual ministers cannot be removed by the President unless the Prime Minister so recommends. It is indeed doubtful if the Prime Minister will ever suggest such an action unless there is a serious crisis.

within the Council. As, for example, Rajiv Gandhi had to drop K.K. Tewary in deference to the wishes of President Zail Singh. If the President dismisses a minister contrary to the advice of the Prime Minister, it is bound to result in a political crisis. The Prime Minister may tender his resignation and it may not be possible for the President to instal an alternative ministry. In short, it can be said that the responsibility of the ministers to the President is only a myth and they stay in office as long as they enjoy the support of the majority of the members of the Lok Sabha. When President Zail Singh wanted to oust a Minister of State, he had asked the Prime Minister. The Prime Minister made an appropriate recommendation and only then the Minister was removed.

In a nutshell, it can be said that though formally the Cabinet is a creation of the President and it stays in office during his pleasure, in reality it enjoys a real executive authority. In fact, the President has to exercise his powers according to the advice and directions of the Council of Ministers.

Relations with the Parliament

A very intimate relationship is envisaged between the Council of Ministers and the Parliament under the Indian Constitution. The members of the Council of Ministers must be members of either House of Parliament. If any person is appointed a minister without being a member of the Parliament, he must acquire the membership of either of the two Houses within six months, otherwise he shall cease to be a minister. The members of the Council of Ministers are also collectively responsible to the Parliament and stay in office as long as they are able to muster support of the majority of the members of the Lok Sabha. The Ministers attend the meetings of the Parliament and take active part in its proceedings. They introduce important bills in the House and with the help of the majority of the members get those bills enacted into laws. Any bill to which the Council of Ministers is opposed has no chance of reaching the statute book.

The Parliament exercises control over the Council of Ministers. This control is exercised through questions, supplementary questions, adjournment motions, criticism of the policy of the government etc. If the Parliament is not satisfied with the working of the Council of Ministers, it can oust it from office by passing a vote of no-confidence. No-confidence in the Council of Ministers can be expressed in a number of ways such as by rejecting a bill introduced by a Minister; passing a bill introduced by an ordinary member of the Parliament to which the Council of Ministers is opposed, reducing or refusing a demand presented by a minister etc. In extreme cases the Parliament can even pass a straight vote of no-confidence in the Ministry. It may be noted that when a vote of no-confidence is passed against the Ministry, it can either tender its resignation or advise the President

to dissolve the Lok Sabha and order fresh elections. It is noteworthy that so long as the Council of Ministers has a clear-cut majority in the Parliament and its members observe party discipline, it can ride roughshod over the Parliament. On the other hand if the Council of Ministers does not enjoy a clear-cut majority in the Parliament or its party is divided, the Parliament is able to exercise effective control over the council. The actual working of the cabinet system for the last four decades has shown that generally it has enjoyed a clear-cut majority in the Lok Sabha and has been able to control the House rather than being controlled by it. It has provided the lead to the House and got its measures, policies and programmes approved without much difficulty. It shall not be wrong to say that it has been the Council of Ministers, which has taken the initiative and governed the country and the Parliament has only contributed either through criticism or consent. The position has however changed in the 9th Lok Sabha, where the ruling National Front does not have a majority of its own and depends on support from outside.

Exercises

1. The office of the President of India was designed on British model. With this background, consider the modifications of the executive powers of the President by the 42nd Amendment, 1976 and thereafter by the 44th Amendment, 1978 to the Constitution of India. Comment on the changes. (I A S Main, 1982)

2. Describe briefly the legislative and executive powers of the President of India. Have there been any changes during the past decade? Offer your comments. (I.A.S Main, 1981)

3. There is no need to replace the Parliamentary form of Government in India with the Presidential form of Government. Justify or oppose this statement. (I A S Main, 1984)

4. Write a note on Ordinance making power of the President. (I.A.S Main, 1986)

5. Explain the grounds on which the President can proclaim a state of Emergency. Give examples from India's experience. (I A.S. Main, 1985)

6. Answer the following :

(a) Under what circumstances, can the Financial emergency be imposed in India?

(b) To what extent does the President of India possess discretionary powers? If any, what are they?

(I.A.S. Main, 1987)

The Union Legislature

1. RAJYA SABHA

Composition

It consists of not more than 250 members, out of which 238 are elected and the remaining 12 nominated by the President for their special contribution to art, literature, science and social services. The elected members are chosen by the State Assemblies in accordance with the system of proportional representation by means of a single transferable vote. The allocation of seats among the States is not on the basis of equality of representation. In the case of Union Territories, members are chosen in such a manner as the Parliament by law determines. A candidate for election to the Council of States must be (i) a citizen of India ; (ii) not less than 30 years of age ; (iii) not holding any office of profit under the Government.

Duration

The Council of States is a permanent body, not subject to dissolution. The term of office for its members is six years, one third of the members retiring after every second year.

Other Provisions

The Vice-President of India is *ex-officio* Chairman of the Council of States. The Council elects one of its members as Deputy Chairman, who presides over its meetings in the absence of the Vice-President. But whenever the Council is considering a Resolution for the removal of the Vice-President or the Deputy Chairman from his office, these officers shall not preside over the sitting of the House, nor can they vote on the resolution, though they are entitled to speak.

Powers and Functions

With regard to legislative powers, the authority of the Council of States is co-extensive with that of the House of the People. No measure can become a law, unless it has been passed by the Council of States. It exercises control over the Union Administration by seeking information, by means of questions and supplementaries, by moving resolutions or motions of adjournment or censure. But it cannot oust the Ministry from office.

As regards the Money Bills, these cannot be introduced in the Council of States. Also when it is passed by the House of the People and transmitted to the Council of States, the latter can delay the Bill for 14 days. It cannot reject the Bill.

2. LOK SABHA

Composition

It consists of not more than 545 members, out of which 525 members are elected from States and not more than 20 members from the Union Territories and tribal areas. The representatives from the States are directly elected by the people on the basis of adult franchise.

The representatives of the Union Territories are to be chosen in such manner as the Parliament may, by law, provide. The President can also nominate two Members to Lok Sabha to represent the Anglo-Indian community if, in his opinion, it is not adequately represented.

A member for election to Lok Sabha must be (i) a citizen of India, (ii) not less than 25 years of age, (iii) not holding any office of profit. The number of seats of each State is so allotted that the ratio between the members and population, as far as practicable, is the same for each State. Each member of the House should represent not less than 5 lakh citizens.

Tenure

Lok Sabha has a tenure of 5 years unless it is dissolved earlier. But while a Proclamation of Emergency under Art. 352 is in operation, this period may be extended for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the proclamation has ceased to operate.

Powers and Functions

(1) Its main function is to enact laws for the good governance of the country. (2) It can pass a vote of no-confidence and thus dismiss the Government in power. (3) It controls the finances of the Union. (4) The Members can elicit information by asking questions and supplementaries. (5) The members can move adjournment motion and thus criticise the government. (6) It can impeach the President in case he violates the Constitution.

3. JOINT SESSION

In the case of Non-Money Bills

(I A S Main, 1982)

After a Bill has been passed by one House of Parliament and transmitted to the other House and

- (a) the Bill is rejected by the other House, or
- (b) Both the Houses have finally disagreed as to the amendments to be made in the Bill, or
- (c) more than six months have elapsed from the date of receipt of the Bill by the other House without the Bill being passed by it

The President may, unless the Bill has lapsed by reason of dissolution of the Lok Sabha, notify to the House by message, if they are sitting, or by public notification, if they are not sitting, his intention to summon them to meet in a joint session for the purpose of deliberating and voting on Bill

If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in the joint sitting, is passed by the majority of the total number of members of both Houses present and voting, it shall be deemed to have been passed by both the Houses

In the case of Money Bills

(I A S Main, 1980)

A Money Bill can be introduced in Lok Sabha only on the recommendations of the President

After a Money Bill has been passed by Lok Sabha, it is transmitted to Rajya Sabha for recommendations. Rajya Sabha must make recommendations within 14 days, of the receipt of the Bill. If it is up to the Lok Sabha to accept or reject any of the recommendations. If the lower House accepts any of the recommendations of the Rajya Sabha, the bill is deemed to have been passed by both the Houses with the amendment recommended by the Rajya Sabha and accepted by the Lok Sabha

If the Lok Sabha does not accept any of the recommendations of the Rajya Sabha, the Money Bill is deemed to have been passed by both Houses in the form in which it was passed by the Lok Sabha

If the bill is not returned within 14 days, it is deemed to have been passed by both the Houses at the expiration of the term of 14 days

If the bill is not returned within 14 days, it is deemed to have been passed by both the Houses at the expiration of the term of 14 days

It is then transmitted to the President for assent. After this it becomes an Act

N.B. In the case of an amendment to constitution, the deadlock cannot be resolved by the joint session of the Parliament. The bill for the amendment of the Constitution has to be presented again to the both Houses of Parliament and it becomes an act when passed by both the Houses by requisite majority

4. THE SPEAKER

Election

The Speaker of the Lok Sabha is elected by the members of Lok Sabha through a simple majority. The term of his office is co-terminus with the life of the House itself

Functions and Powers

(I A S Main, 1988)

(1) He presides over the sittings of Lok Sabha and the joint session of Parliament. (2) He decides whether a particular bill is a Money bill or not and his decision is final. (3) He determines the order of the business in the House

in consultation with the leader of the House (4) He decides about the admissibility of questions and Adjournment Motions, etc (5) He appoints chairmen of the select committees (6) He maintains proper decorum in the House He warns disorderly members and suspends them from sittings of the House, if any member flouts his authority

Removal

The House of the people can remove the Speaker at any time by a resolution passed by the majority of the members for the time being Such a resolution can be introduced in the House only after a notice has been given to that effect at least fourteen days before

5. MONEY BILL

A bill is said to be a Money Bill if it contains only provisions dealing with all or any of the following matters

- (i) the imposition, abolition, remission, alteration or regulation of any tax,
- (ii) regulation of borrowing of money or creating or regulation of any tax,
- (iii) custody of the Consolidated Fund of India or Contingency Fund of India and its operation,
- (iv) appropriation of money out of the Consolidated Fund of India,
- (v) the declaring of money charged on the Consolidated Fund of India or increasing the amount of such expenditure,
- (vi) The receipt of money on account of the Consolidated Fund of India or Public Account of India or custody or issue of any such expenditure,
- (vii) audit of accounts of the Union or a State, or
- (viii) any other matter incidental to any of the matter referred to above

6. PARLIAMENTARY CONTROL OVER FINANCE

The Parliament exercises its control over public expenditure by the following methods

(1) Presentation of Budget

The part played by the Parliament in financial matters starts with the presentation of Annual Financial Statement, popularly known as Budgets The statement is laid by the President before both the Houses of Parliament The statement shows the anticipated revenue and expenditure of the Union Government for the coming financial year The estimates of expenditure show separately (i) the expenditure charged upon the Consolidated Fund of India, which is not subject to the vote of Parliament, and (ii) other expenditure which is subject to the vote of Parliament After the Annual Financial Statement is presented there is a general discussion of the statement as a whole in

either House. This discussion is to be of general nature relating to Government policy and review and criticism of the administration. No motion is made at this stage nor is the Budget submitted to vote.

(2) Demands for Grants

In the Lok Sabha, after the general discussion, the estimates of expenditure other than the charged are placed in the form of Demands for Grants. A separate demand is ordinarily made for each Ministry. The Lok Sabha has the power to assent to a demand, to refuse it or to reduce it. It has no power to increase a demand or to alter the allocation of expenditure from one head to another. In regard to the expenditure charged on the Consolidated Fund of India, the power of the Lok Sabha is restricted only to the discussion of the various items, as these are not subject to vote.

(3) Appropriation and Finance Bill

After the Grants are voted by the Lok Sabha, the Grants so made by the Lok Sabha, as well as the expenditure charged upon the Consolidated Fund of India, are incorporated in an Appropriation Bill. It provides for the withdrawal of moneys from the Consolidated Fund of India. Similarly, the tax proposals of the budget are embodied in another bill known as the Finance Bill. Both these bills, being Money Bills, are introduced in the Lok Sabha. After each bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha. The Rajya Sabha has power only to make recommendations within 14 days, but no power of amending or rejecting the bill. It is up to the Lok Sabha to accept or reject any recommendations of the Rajya Sabha. In any case the bill will be deemed to have been passed by both Houses of Parliament and it becomes law on receiving the assent of the President.

(4) Vote on Account

Apart from the foregoing, the Lok Sabha has been empowered to make any grant in advance pending passing of the Appropriation Bill. This is known as "Vote on Account". The Lok Sabha can also make grants to meet the unexpected demands for moneys by votes of credit and exceptional grants. It can also sanction any additional, supplementary or excess grants.

(5) Public Accounts Committee

The power of the Parliament about financial matters do not end with the granting of money to the executive. It also includes power to ensure that the expenditure sanctioned by it has been actually spent in the manner intended in the Appropriation Bill. For this purpose, the Parliament appoints a Public Accounts Committee, comprising 22 members — 15 from Lok Sabha and 7 from Rajya Sabha. It examines the audit report presented by the Comptroller and Auditor-General of India and then submits its report to the Lok

Sabha, pointing out the irregularities and its own recommendations. The report is discussed in the Parliament and effective measures are taken

(*J A S Main, 1988*)

7. PRIVILEGES OF PARLIAMENT

The privileges of Parliament are certain rights belonging to each House collectively and some to the members individually for maintaining its freedom, status and dignity

Two of the privileges viz ,

- (i) freedom of speech, or
- (ii) right of the House to publish its debates and speeches without any liability for libel and the like

are provided in Article 105 of the Constitution. As regards other privileges, the Constitution says that the powers, privileges and immunities of either House of Parliament, its Members and Committees shall be as defined by Parliament by law and until so defined shall be as available to them at the time of enactment of the 44th Amendment Act of 1978. It is worth noting that so far no House of Parliament has codified all its powers, etc

Privileges of Parliament

(*J A S Main, 1989*)

The privileges, powers and immunities of a House of Parliament are

- (i) that no court shall look into validity of its proceedings,
- (ii) no Officer or Member of Parliament is answerable to any court for exercise of the powers vested in him under the Constitution,
- (iii) to make its own rules for regulating its procedure and business,
- (iv) to regulate recruitment and conditions of service of persons appointed to the Secretariat of the House, and
- (v) to punish any person for contempt of the House and breach of privileges of Members, Committees and the House

Privileges of Members of Parliament

(*J A S Main, 1988*)

The privileges of Members of Parliament are

- (i) complete freedom of speech without restrictions applicable as in Article 19(1)(a),
- (ii) freedom from legal action for anything said in Parliament or vote given,
- (iii) exemption from attendance as witness,
- (iv) non-arrest within the precincts of Parliament, and
- (v) information to Presiding Officer in the case of arrest of any M P outside the precincts of Parliament

N B. The committees of Parliament have the power to requisition the

documents and enforce the attendance of officer's connected with the performance of its functions

8. POWERS OF THE PARLIAMENT

The Parliament of India enjoys very extensive powers which can be conveniently studied under the following heads

(1) Legislative Powers

(I A S Main, 1989)

Parliament enjoys the right to legislate on all the subjects enumerated in the Union List as well as the Concurrent List. However, in case of subjects in the concurrent list the States also enjoy similar powers. In case of clash between the Union and the State law on a concurrent subject, however the Union law gets precedence. It also reserves the right to legislate on any subject not included in any of the three lists. Under certain circumstances the Parliament can also legislate on the subjects enumerated in the State List. Thus it can legislate on a state subject (a) if Rajya Sabha passes a resolution by a two-thirds majority of its members present and voting then it is necessary or expedient to legislate on a state matter in the national interest, (b) when a proclamation of emergency has been made either due to threat to the security of India or breakdown of constitutional machinery in a state, (c) if the legislatures of two or more States recommend that the Parliament should legislate on a subject included in the State List, (d) for implementing any treaty, agreement or convention with foreign countries or any decision taken at an International Conference or Association.

In the matter of legislation, the two Houses of Parliament have been placed on a footing of equality and the proposals can be initiated in either of the two Houses. However, the approval of both the Houses is essential to place the bill on the statute book. The differences between the two Houses are resolved through a joint sitting of the two Houses where the issue is resolved by the majority vote. It is obvious that this arrangement gives a dominant position to Lok Sabha in view of its greater numerical strength.

(2) Financial Powers

(I A S Main, 1989)

The Parliament has been vested with complete control over the finances of the Union Government. No expenditure can be incurred or taxes levied without the approval of the Parliament. Though the budget is formally prepared by the executive, the power to sanction the same rests with the Parliament. It may be noted that in the financial sphere the Lok Sabha has been accorded a superior position. The Constitution specifically provides that a money bill cannot be introduced in the Council of States. After it is passed by the Lok Sabha, it is transmitted to the Rajya Sabha for its recommendations. The Rajya Sabha is obliged to return the bill to the Lok Sabha within fourteen days of the receipt of the bill along with its recommendations. It is up to the

Lok Sabha to accept those recommendations or not. If the Lok Sabha accepts the recommendations of the Rajya Sabha, the money bill is deemed to have been passed by both the Houses with the amendments recommended by the Rajya Sabha and accepted by the Lok Sabha. However, if the Lok Sabha does not accept any of the recommendations of the Council of States (Rajya Sabha), the bill is deemed to have been passed by both the Houses in the form in which it was passed by the Lok Sabha without any of the amendments recommended by the Rajya Sabha. In case the Rajya Sabha fails to return the money bill transmitted to it by the Lok Sabha with its recommendations within fourteen days, it is deemed to have been passed by both the Houses at the expiration of the said period in the form in which it was passed by the Lok Sabha. It is thus evident that in the financial sphere the Rajya Sabha stands at a lower pedestal. It can at the most delay the passage of a Money Bill for a maximum period of fourteen days. It has rightly been said that the Rajya Sabha can only touch the purse strings of the nation, it can neither widen its opening nor block the flow from it. The Parliament also keeps an eye on the expenditure of the Government through its Committees like the Public Accounts Committee, Estimates Committee, etc.

(3) Control over the Executive

(1 A S Main 1981)

In the Parliamentary system of Government provided under the Indian Constitution, the Council of Ministers, which is the real executive, stays in office as long as it enjoys the confidence of the Parliament. This accountability of the Council of Ministers to the Parliament in effect means its accountability to the Lok Sabha, the popular House of the Parliament. The Parliament reserves the right to criticise the policy of the Government and seek information on all matters falling under the jurisdiction of the Union government. Such control over the Ministry is exercised through questions, supplementary questions, resolutions and adjournment motions. In case the Parliament is dissatisfied with the working of the Ministry, it can pass a vote of no-confidence and compel it to tender its resignation. It is noteworthy, that in actual practice it is the Council of Ministers which actually controls the Parliament. The Parliament may discuss, debate, criticise and sometimes bitterly attack the policies of the Government but it ultimately approves what is being done by the Ministry. The rigid party discipline has further reduced the control of the Parliament over the Ministry and the proposals submitted by the Cabinet are readily accepted by the Parliament. The Parliament has thus virtually become a decision-approving and policy-endorsing body.

As regards the position of the two Houses with regard to control over the Executive, the Rajya Sabha certainly enjoys an inferior position. Though like the Lok Sabha it has right to seek information from the Ministers and criticise their policies, yet it does not enjoy any power to oust them from office by passing a vote of 'no-confidence', a power which exclusively rests with the Lok Sabha.

(4) Constituent Powers*(I.A.S. Main, 1989)*

The Parliament of India has been vested with extensive powers to amend the Constitution. Leaving apart certain provisions of Constitution concerning the federal character, powers of the Union and State Governments, the election of the President, the Supreme Court and the High Court, representation of states in Parliament, etc., the Parliament can amend the Constitution either by a simple majority or by a two-thirds majority of its members, present and voting. Further, all the amendments can be initiated only in the Parliament and the States do not possess any power in this regard. As regards the respective position of the two Houses with regard to amendment of the Constitution, the two Houses have been given equal powers.

(5) Miscellaneous Powers*(I.A.S. Main, 1989)*

The Parliament also possesses extensive miscellaneous powers, which do not fall in any of the above enumerated categories of powers. It elects the Vice President of India and can initiate impeachment proceedings against the President. All the elected members of the Parliament take part in the election of the President along with the elected members of the State Legislative Assemblies. The Parliament also enjoys the power to recommend the removal of the judges of the Supreme Court and High Courts to the President. The Proclamation of Emergency made by the President also needs the approval of the Parliament. Unless the Parliament accords its approval, the emergency ceases to operate after thirty days of the proclamation.

The Parliament can assume power to legislate on any subject in the State List if the Rajya Sabha passes a resolution by a two-thirds majority of its members present and voting that it is necessary or expedient in national interest that the Parliament should make laws with regard to any matter enumerated in the State List. Though initially such a resolution is valid only for a period of one year, yet its duration can be further extended by one year at a time. Similarly, the Parliament can create new All-India Services on the basis of the resolution passed by the Rajya Sabha to this effect. This obviously gives greater control to the central government over the administration of the States. It may be noted that with regard to both these powers, the Rajya Sabha has been given a position of priority.

A perusal of the powers of the Indian Parliament shows that it has indeed been vested with very extensive powers. But its real importance lies in the important role it plays in controlling the government and getting the public grievances ventilated and redressed.

How far is the Indian Parliament a sovereign body ?*(I.A.S. Main, 1988)*

Scholars have often tended to draw a comparison between the Indian Parliament and the British Parliament. At the outset, it may

be pointed out that the position of the two Parliaments fundamentally differs. The British Parliament is considered to be a sovereign body in so far as there do not exist any legal restrictions on its authority. The Indian Parliament cannot advance any such claims. According to Dicey, in England the sovereignty of Parliament implies two things. In the first place, in England no distinction is made between an ordinary law and the constitutional law, in so far as the procedure for the enactment and amendment of the two is the same. In the second place, there is no law which the British Parliament cannot enact, repeal, or modify. On the other hand, the Indian Parliament cannot claim to be a sovereign body due to the following reasons:

Firstly, the Constitution provides a federal structure for the country in which the powers have been distributed between the Union and the State Governments. The Central Government has the exclusive power to legislate on the subjects in the Union List, while the States enjoy exclusive powers on the subjects in the State List. As both the Centre and the States draw their powers from the same source, viz, the Constitution, none of them can claim to be superior. On the other hand, in England all the powers are vested in the centre and the units draw all their authority from the Centre, which also reserves the right to withdraw them at will.

Secondly, the written character of the Indian Constitution is another limitation on the authority of the Parliament. The Parliament has been given specific powers by the Constitution and it has to operate within the prescribed sphere. No doubt, under certain circumstances, the Parliament can also legislate on the subjects listed in the State List but it has to operate within the limits prescribed by the Constitution. The Parliament is not free to amend all the provisions of the Constitution. Some of the vital provisions of the Constitution concerning the federal character of the Constitution can be amended only with the approval of the State Legislatures. This is a clear restriction on the authority of the Parliament if we remember that in Britain the Constitution is flexible and the Parliament can amend it anyway it likes.

Thirdly, the presence of the doctrine of judicial review also restricts the sovereignty of the Indian Parliament. The Supreme Court of India has been authorised to examine the constitutionality of laws enacted by the Parliament and to declare them as unconstitutional if they contravene the provisions of the Constitution. There is no such restriction on the authority of the British Parliament and the courts are merely expected to apply the laws, enacted by the British Parliament, without going into their legality or reasonableness.

Fourthly, the incorporation of a chapter on Fundamental Rights in the Indian Constitution also restricts power of the Parliament.

While enacting laws, the Parliament has to ensure that they do not infringe the Fundamental Rights of the citizens due to the fear of such laws being declared *ultra vires* by the courts. The absence of a chapter on the Fundamental Rights in the British Constitution further imparts greater freedom of action to it.

In view of the above limitations and restrictions, it can be observed that the Indian Parliament can by no stretch of imagination claim to be a sovereign body in the sense in which the British Parliament is a sovereign body.

9. WORKING OF PARLIAMENT

The Parliament works in accordance with the rules and regulations formulated by the Parliament in this regard. The power to summon the session of the two Houses of Parliament rests with the President, who can also prorogue the two Houses and dissolve Lok Sabha. However, under the Constitution, it is obligatory for the President to summon at least two sessions of the Parliament every year and the gap between these two sessions should not be more than six months. In actual practice the Indian Parliament has three sessions in a year. These sessions are generally held in the months of January-February, July-August and October-November respectively.

Generally, the first session of the Parliament every year starts with an address by the President. In this address the President makes a review of the conditions prevailing in the country and outlines the policy and programme of the Government during the ensuing year. This speech is in fact prepared by the Prime Minister and is approved by the Cabinet and the President simply reads it out on the floor of the Parliament. After due discussion, the Parliament passes a 'Vote of Thanks' to the President, which tantamount to the approval of the policy of the Government. But before the 'final vote of thanks' is passed by the House, lot of discussion takes place on Government's policy. It is only after the 'vote of thanks' that the House proceeds with its normal work, viz., legislation.

Legislative Procedure

An identical legislative procedure is followed in both the Houses. Under the provisions of the Constitution any bill, other than the financial or money bill, can originate in either House of Parliament. It is submitted to the President for his assent only after it has been passed by both the Houses. However, if the two Houses are not able to agree on a particular bill, the issue can be resolved by the President by summoning a joint sitting of the two Houses. At such a joint sitting, the decision is taken by the majority of members of both the Houses present and voting.

An ordinary or non-money bill has to pass through the following stages in each House :

First Reading : At this stage the mover of the Bill reads out the title. Generally he makes a brief speech explaining the aims and objects of the Bill. After this the opponents of the bill are permitted to make a brief speech. This is followed by a vote of the House and the bill is published in the Gazette. It may be noted that the bills introduced by the Ministers (viz., Government Bills) are straightway published in the Gazette and the formal leave of the House is not sought.

Second Reading After sometime, the Second Reading of the bill takes place. At this stage the general principles of the bill are discussed. It is noteworthy that the bill, as a whole, is discussed and amendments are permitted at this stage.

Committee Stage : After the Second Reading the bill is referred to the appropriate committee. The committee considers the various provisions of the bill thoroughly and suggests suitable no improvements and amendments.

Report Stage : After the committee has completed its deliberations, it submits a report to the House. This report is then thoroughly discussed by the House. Discussion is held on the various clauses of the bill and separate voting takes place on each clause. At this stage amendments can be proposed to the bill.

Third Reading : At this stage only general discussion on the bill takes place and the final voting on the bill is held. No amendments can be introduced at this stage.

After the bill has been passed by one House it is transmitted to the other House, where it has to go through all these stages once again. If the other House approves of the bill, the same is sent to the President for his assent. On the other hand, if the other House refuses to pass the bill or proposes certain amendments which are not acceptable to the first House, the differences are sorted out by the President through a joint sitting of the two Houses.

Financial Procedure

(I A S. Manu, 1980)

The procedure for the enactment of the money or financial bill is slightly different. It can be introduced only in the Lok Sabha and that too on the recommendation of the President, which implies that only the Ministers can introduce the money bills. After a money bill is passed by the Lok Sabha it is transmitted to the Rajya Sabha for its recommendations. The Rajya Sabha is obliged to make these recommendations within a period of fourteen days. If the Rajya Sabha fails to make any recommendation within this period or does not take any action, the bill is considered to have been passed by both the

Houses and is transmitted to the President for his assent. Even if the Rajya Sabha returns the bill with certain recommendations within fourteen days, it is up to the Lok Sabha to accept them or to ignore them. In short, the Rajya Sabha can at the most delay the passage of a money bill for a maximum period of fourteen days.

President's Assent

After a bill is passed by the Parliament it is presented to the President for his assent. In the case of money bills, the assent of President is just a formality and he has hardly any discretion. In case of non-money bills, however, the President may withhold his assent and return the bill for the reconsideration of the Parliament. But if the two Houses of the Parliament re-pass the bill with or without amendments, the president has to append his signatures to the bill. It is noteworthy that the Constitution does not prescribe any time limit within which the President has to communicate his assent. This obviously is a serious drawback in so far as the President can block the passage of a bill approved by the two Houses of Parliament by simply pocketing it, viz., not taking any action on it.

10. COMMITTEES OF PARLIAMENT

To cope with the ever-increasing work, the Indian Parliament has set up a number of committees. These committees play an effective role in the working of the Indian Parliament. The members of these committees are appointed by the Speaker or are elected by the House from amongst its members. These committees are authorised to call witnesses and collect evidence by asking for official papers and records.

The important Committees of Lok Sabha are as follows:

(1) Business Advisory Committee *(J A S Main, 1990)*

This Committee is concerned with the planning and regulation of the business of the House. It also advises the House regarding allocation of time for the discussion of various issues. This committee is formed at the beginning of the Lok Sabha's session and consists of 15 members. The Speaker is the Chairman of this Committee. To ensure the smooth working of the House, the leaders of the major opposition parties are also associated with this Committee.

(2) Committee on Private Members Bills and Resolutions

This Committee examines the bills submitted by the members of the House and classifies them according to their importance and need. This Committee consists of 15 members who are nominated by the Speaker for a term of one year.

(3) Select Committees on Bills

There are a number of Select Committees of the House which collect information on various issues and submit necessary reports on the basis of the examination of relevant material and witnesses. The Committee is dissolved soon after it has submitted the report on the subject under reference. The members of the Select Committee are appointed by the House. The strength of members of various Select Committees differs according to the importance of the bill.

(4) Committee on Petitions

This Committee examines the petitions made by the members of the House and suggests remedial measures. This Committee consists of 15 members but no minister can be a member of this committee. This Committee is also constituted at the commencement of the session of the House.

(5) Rules Committee

The Committee considers the matters of procedure and conduct of Business in the House. It also reserves the right to make necessary suggestions for improvement or change in these rules. The committee consists of 15 members who are nominated by the Speaker. The Speaker is the *ex-officio* Chairman of this Committee.

(6) Committee on Privileges

The Committee tries to safeguard and protect the privileges of the members of the House and suggest appropriate action against the erring authorities. It may be noted that the members of the Parliament have been granted certain privileges and immunities and any violation or denial of these tantamounts to a crime for which legal proceedings can be instituted against the erring authority. The Privileges Committee consists of 15 members who are nominated by the Speaker at the commencement of the session of the Lok Sabha. Generally the Deputy Speaker acts as the Chairman of this Committee.

(7) Committee on Subordinate Legislation

The Committee is constituted to ensure that rule-making powers delegated to the executive are not misused. It scrutinises the rules and regulations enacted by the various departments to ensure that these conform to the main law enacted by the parliament. In case these rules are in violation of the main law, the Committee brings the same to the notice of the House for necessary action.

Thus the Committee plays an important role in preventing usurpation of Parliament's power by the executive. This committee

also consists of 15 members who are nominated by the Speaker. The Ministers cannot be members of this Committee.

(8) Committee on Public Undertakings

(I A.S. Main, 1986)

This is a committee of both the Houses of Parliament. It consists of 15 members—10 from the Lok Sabha and 5 from the Rajya Sabha. The committee examines the working of the Public Undertakings, including their financial matters.

(9) Committee on Government Assurances

This committee examines the various assurances and undertakings given by the Ministers on the floor of the House to find out how far these have been fulfilled or implemented within the stipulated time. This committee consists of 15 members who are nominated by the Speaker for one year. The Ministers are not eligible for membership of this committee.

(10) Committee on Absence of Members

This committee examines the applications of the members of Lok Sabha for leave of absence from the House. It also examines those cases where a member has been missing from the sessions of the House for more than sixty days without permission of the House. The committee decides whether the long absence of members from the House should be condoned or the seat be declared vacant and fresh elections held. This committee also consists of 15 members nominated by the Speaker for one year.

(11) Estimates Committee

It is a very significant committee and performs the following functions: (i) It reports what economies, improvements in organisation, efficiency or administrative reforms, consistent with the policy underlying the estimates, can be effected. (ii) It suggests alternative policies to bring about efficiency and economy in administration. (iii) It ensures that the money is well-laid-out within the limits of the policy implied in the estimates. (iv) It suggests the form in which the estimates should be presented to the Parliament. In short, the committee plays an important role in examining the annual estimates and suggests alternative policies to the government to ensure efficiency and economy in administration. The Estimates committee consists of 30 members elected every year from among the members of the House on the basis of proportional representation and single transferable vote. The Chairman of the Estimates committee is appointed by the Speaker. However, if the Deputy Speaker happens to be a member of this committee, he *ipso facto* becomes its Chairman.

(12) Public Accounts Committee (I.A.S. Main, 1982)

This is also a joint committee of the two Houses. It consists of 22 members—15 from Lok Sabha and 7 from Rajya Sabha. It may be noted that Rajya Sabha members are only associate members and not entitled to vote. The members of the committee are elected for one year but by convention they generally continue in office for at least two years. The election is held on the basis of proportional representation through a single transferable vote. The Ministers cannot be members of this committee. The Chairman of the committee is appointed by the Speaker from amongst its members. However, if the Deputy Speaker happens to be the member of this committee, he *ipso facto* becomes its Chairman. The main function of the committee is to examine the report of the Comptroller and Auditor-General of India and to ascertain that the expenditure has not exceeded the grants made by the Parliament and the money has been spent for the purpose it was sanctioned by the Parliament. It also sees to it that the financial rules and regulations have been followed by the executive. The committee plays an important role in ensuring regularity and economy in expenditure.

11. PROCEDURE IN PARLIAMENT

(1) PARLIAMENT QUESTIONS

Starred Questions

(I A S. Main, 1989)

Starred Questions are those questions for which a Member of Parliament desires oral answer. Such a question is distinguished by an asterisk mark. If a member does not mark his question by an asterisk, it receives only a written answer. The period of notice for such a Questions is 10 days. A member can have three Questions for oral answer on a day's list. The purpose of providing for this type of questions is that the member concerned or any other member may, when called by the Speaker, put supplementary questions for elucidating further any matter of fact regarding which an answer has been given. The Speaker can, however, disallow any supplementary question if, in his opinion, it infringes the rules as to the questions.

Unstarred Questions

(I A S. Main, 1989)

An Unstarred Questions is one, to which no oral answer is desired. It is question to which only a written answer is furnished. Answers to Unstarred Questions are laid on the table of the House concerned and they, along with answers, are printed in the official report of the meeting, for which they are put down. These questions are entered into a separate list of questions and no supplementaries can be asked thereto. Also there is no limit to the number of such questions that can be asked on a particular day. The period of notice for such questions is 10 days.

Short Notice Questions

These are questions relating to a matter of public importance asked with shorter notice than that

required for ordinary questions. The member concerned must state the reasons for asking questions with short notice ; otherwise the question may be returned to him. If the Speaker is of the view that the question is of an urgent character, he may direct that an enquiry be made from the Minister concerned if he is in a position to reply and if so, on what date. If the Minister concerned agrees to reply, such question will be answered on a day to be indicated by him and shall be called immediately after the questions for oral answers have been disposed of

If the Minister concerned is unable to answer the question at short notice and the Speaker is of the opinion that the question is of sufficient public importance to be orally answered in the House, he may direct that the question be placed as the first question on the list of questions for the day on which it would be due for answer in the normal course. Not more than one such question shall be accorded first priority for one day.

(2) CUT MOTION

(I A S. Main, 1989)

A motion moved to reduce the amount of Demand for Grant is called Cut Motion. These are of three types :

(i) **Disapproval of Policy Cut** : Here the motion is moved to show disapproval of the policy underlying the demand. A member giving notice of such a demand should indicate precisely the particulars of policy, which he proposes to discuss and the discussion should be confined to the specific point mentioned in the notice. It is, however, open to the member to advocate an alternative policy.

(ii) **Economy Cut** : Here the motion is that the demand be reduced to a "specified amount" representing the economy that can be effected. Such specified reduction may be either a lump-sum reduction in the demand or remission or reduction of any item in the demand. The notice for such a motion shall indicate briefly and precisely the particular matters on which discussion is sought to be raised and the speeches should be confined as to how economy can be effected.

(iii) **Token Cut** : Here the motion is that the demand be reduced by Rs 100. This motion is moved in order to ventilate a specific grievance, which is within the sphere of responsibility of the Government of India. The discussion on such a motion is confined to the particular grievance specified in the notice.

(3) ABJOURNMENT MOTION

(i) **Definition** : It is a motion, which may be moved by a Member of Parliament for an adjournment of the normal business of

the House for the purpose of discussing a definite matter of urgent public importance with the consent of the Speaker.

(ii) **Notice** : The member concerned has to give notice of such a motion to (i) the Speaker (ii) the Minister concerned and (iii) Secretary of the House in which the motion is proposed to be made.

(iii) **Conditions of Admissibility** : The right to move Adjournment Motion is subject to the following restrictions .

- (i) not more than one such motion shall be made in the same sitting ,
- (ii) not more than one matter shall be discussed in the same motion ,
- (iii) the motion shall be restricted to a specific matter of recent occurrence ;
- (iv) the motion shall not raise a question of privilege ;
- (v) the motion shall not revive discussion on a matter which has been discussed in the same session ,
- (vi) the motion shall not anticipate a matter, which has been previously fixed up for consideration ;
- (vii) the motion shall not deal with a matter which is *sub-judice* ;
- (viii) the motion shall not raise any question which, under the Constitution or Rules of Procedure, can only be raised by a distinct motion by a notice given in writing to the Speaker

(4) MOTION OF NO-CONFIDENCE

(i) A Motion expressing want of confidence in the Council of Ministers may be made subject to the following restrictions .

- (a) leave to move the motion should be asked for after the questions and before the list of business for the day is entered into ,
- (b) the member asking for leave should give a written notice of the Motion to the Secretary of the House before the commencement of the sitting for the day

(ii) If the Speaker is of the opinion that the motion is in order, he shall read the Motion to the House and request those members, who are in favour of leave being granted to rise in their place. If not less than 50 members rise, the Speaker shall declare that the leave has been granted. If less than 50 members rise, the Speaker shall inform the member that he has not the leave of the House.

(iii) If the leave is granted, the Speaker will allot a day or part of a day or more than a day for discussion of the motion, not being more than 10 days from the date on which leave is granted.

(iv) On the appointed day the Speaker shall put every possible question necessary to determine the decision of the House on the motion.

(v) The Speaker may prescribe a time-limit for speeches.

(5) HALF-AN-HOUR DISCUSSION

(i) Half-an-hour discussion is a discussion raised on a matter of a sufficient public importance, which has been the subject of a recent question, oral or written, and the answer to which needs elucidation as a matter of fact.

(ii) A member wishing to raise such a discussion has to give notice in writing to the Speaker, three days in advance of the day, on which it is desired to raise the matter specifying the point or points, on which he wishes to raise discussion. The notice should be accompanied by an explanatory note stating the reason for raising discussion on the matter in question and supported by the signature of two other members. The Speaker may, however, with the consent of the Minister concerned, waive the requirement concerning the period of notice.

(iii) The Speaker decides whether the matter is of sufficient public importance to be put down for discussion. He may not admit a motion which, in his opinion, seeks to revise the policy of the Government.

(iv) If more than two notices have been received and admitted by the Speaker, the secretary shall hold the ballot with a view to draw two notices and the notices are put down in the order in which they were received in point of time.

(v) There is no formal motion before the House nor voting. The member who has given notice, or in his absence, the member supporting the notice may make a short statement and the Minister concerned may reply shortly. Any member, who has previously intimated to the Speaker, is permitted to ask questions for the purpose of elucidating further any of the facts involved.

(6) DISTINCTIONS

(a) Adjournment and Prorogation of the House

(1) Adjournment of the House means postponement of a sitting to a particular day or to an hour or part of the same day or *sine die* i.e., without any definite date being fixed for the next sitting, while prorogation means end of the session of the House.

(2) The House is adjourned by the Speaker, while it is prorogued by the President.

(3) The President has the power to promulgate ordinances when the House stands prorogued but not when the House stands adjourned

(b) Select Committee and Joint Committee

(1) A Select Committee on a bill is appointed by a motion moved and adopted by the same House while a Joint Committee is appointed on a motion adopted in one House and concurred by the other House

(2) Select Committee includes the members of one House only, while a Joint Committee includes members of both the Houses

(3) A Money Bill can be referred to only the Select Committee of Lok Sabha and not to a Joint Committee

(c) Sitting of the House and Session of the House

A session is a period for which the House on summons of the President meets for a period, while sitting is a meeting of the House on any day or part of the day during the session.

(d) Bill and Act

A Bill is a draft of a legislative proposal, put up in the proper form, which when passed by both the Houses of Parliament and assented to by the President, becomes an Act.

An Act is a Bill passed by both the Houses of Parliament and assented to by the President.

(7) AMENDMENTS TO BILLS

The following conditions shall govern the admissibility of amendments to clauses or schedules of a Bill :

(i) An amendment should be within the scope of the Bill and relevant to the subject matter of the clauses to which it relates

(ii) An amendment should not be inconsistent with any previous decision of the House on the same question

(iii) An amendment should not be such as to make the clause which it proposes to amend unintelligible or ungrammatical

(iv) If an amendment refer to, or is not intelligible without a subsequent amendment or schedule, notice of subsequent amendment or schedule should be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.

(v) The Speaker should determine the place at which an amendment should be moved.

(vi) The Speaker may refuse permission to propose an amendment which is, in his opinion, frivolous or meaningless

(vii) An amendment may be moved to an amendment which has already been permitted by the Speaker

(8) RESOLUTION

Form of Resolution : A resolution may be in the form of

- (a) a declaration of opinion or recommendation ; or
- (b) may be in the form so as to record either approval or disapproval by the House of an Act or policy of the Government or convey a message ; or
- (c) commend, urge or request an action ; or
- (d) call attention to a matter or situation for consideration by the Government ; or
- (e) in such other form as the Speaker may consider appropriate.

Object : This is intended mainly for Private Members, who would like to elicit the views of the House as a whole.

Subject Matter : A member of Parliament or a Minister may move a resolution relating to a matter of general public interest.

Conditions of Eligibility : In order that a resolution may be admissible, it should satisfy the following conditions :

- (a) it should be clearly and precisely expressed ;
- (b) it should raise substantially one definite issue ;
- (c) it should not contain arguments, inferences, ironical expressions, imputations or defamatory statements ;
- (d) it should not refer to the conduct or character of persons except in their official or public capacity ; and
- (e) it should not relate to a matter, which is *sub-judice*.

Admissibility of Resolutions : The Speaker shall decide, whether a resolution or a part thereof is or is not admissible under the rules. He may disallow any resolution or a part thereof when in his opinion, it is an abuse of the right of moving a resolution, or calculated to obstruct or prejudicially affect the procedure of the House or is in contravention of the Rules of Procedure and Conduct of Business.

Notice : A member, other than a Minister, who wishes to move a resolution, should give 15 days' notice of his intention and should submit with notice, text of the resolution, which he wishes to move. The Speaker may, however, allow it to be entered in the list of business with notice shorter than 15 days.

A member, who has moved a resolution or an amendment to a resolution, cannot withdraw the same, except with the leave of the House.

If a resolution, which has been admitted, is not discussed during the session, it should be deemed to have been withdrawn.

(9) DIVISION

"Division of the House" On the conclusion of a debate, the Speaker puts the question and invites those who are in favour of the motion to say "Aye" and those against the motion to say "No"

The Speaker then says, "I think the Ayes (or the Nos, as the case may be) have it." If the opinion of the Speaker as to the decision of a question is not challenged, he says twice, "The Ayes (or the Nos, as the case may be) have it", and the question before the House is determined accordingly. If the opinion of the Speaker as to the decisions of a question is challenged, he orders that the lobby be cleared. Then, after the lapse of two minutes, he puts the question a second time and declares whether in his opinion, the 'Ayes' or the 'Nos' have it

If the opinion so declared is again challenged, he directs the "Ayes" to go into the right Lobby and the "Nos" into the left lobby. In the "Ayes" or the "Nos" lobby, as the case may be, each member calls out his Division Number and the Division Clerk, while marking off his number on the Division List, simultaneously calls out the name of the member

If, however, in the opinion of the Speaker, the division is unnecessarily claimed, he may ask the members who are for 'Ayes' and those for 'Nos' respectively to rise in their places and, on a count being taken, he may declare the determination of the House. In such a case, the names of the voters are not recorded

After voting in the lobbies is completed, the Division Clerk hands over the Division Lists to the Secretary who counts the votes and presents the total of 'Ayes' and 'Nos' to the Speaker. The result of a division is announced by the Speaker and cannot be challenged

A member who is unable to go to the Division Lobby owing to sickness or infirmity may, with the permission of the Speaker, have his vote recorded either at his seat or in the Members' Lobby

If a member finds that he has voted by mistake in the wrong Lobby, he may be allowed to correct his mistake provided he brings it to the notice of the Speaker before the result of the division is announced

When the Division Clerks have brought the Division Lists to the Secretary's Table, a member who has not up to that time recorded his vote, but who then wishes to have his vote recorded, may do so, with the permission of the Speaker

(10) PETITIONS

Definition . *Petitions* are the written representations addressed by any citizen or citizens to the Lok Sabha. Petitions may be presented or submitted to the House with the consent of the Speaker on :

- (a) a Bill which has been published or which has been introduced in the House ,
- (b) any matter connected with the business pending before the House , and
- (c) any matter of general public interest.

Conditions of Eligibility : In order that a petition may be admissible, it should not be one :

- (a) which falls within the cognizance of a Court of law having jurisdiction in any part of India or a Court of Enquiry, or a Statutory Tribunal or authority or a quasi-judicial body, or a Commission ;
- (b) which should ordinarily be raised in a State Legislature ,
- (c) which can be raised on a substantive motion or resolution ;
- (d) for which remedy is available under the law, including rules, regulations, bye-laws, made by the Central Govt or an authority to whom power to make such rules regulations, etc , is delegated

Form . The petition should be in the form prescribed in the Rules of Procedure and Conduct of Business in Lok Sabha with such variations as the circumstances of each case require. Every petition should be couched in respectful, decorous and temperate language.

It should be either in Hindi or in English and signed by the petitioner. The full name and address of every signatory to a petition should be set out therein and should be authenticated by his signature and, if illiterate, by his thumb impression. No letter, affidavit or other documents should be attached to any petition.

Presentation : Every petition should, if presented by a Member, be countersigned by him. If a petition is made in any Indian language other than Hindi or English, its translation in Hindi or English, should also be countersigned by the Member presenting it. A member of the House should not present a petition from himself.

Every petition should be addressed to the House and should conclude with a prayer stating the definite object of the petition in regard to the matter to which it relates. A member should give advance intimation to the Secretary of his intention to present a petition.

A petition may be presented by a member or be forwarded to the Secretary who should report it to the House. No debate is allowed on the presentation or the making of such report.

Disposal Every petition, after presentation by a member or report by the Secretary, as the case may be, stands referred to the Committee on Petitions, which examines it. If the petition complies with the Rules, the Committee may direct that it be circulated. Where circulation of the petition has not been directed, the Speaker may, at any time, direct that the petition be circulated.

It is also the duty of the committee to report to the House on specific complaints made in the petition referred to it after taking such evidence as it deems fit and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future.

(11) PRIVATE MEMBERS' BUSINESS

The last two and a half hours of a sitting on Friday are allotted for the transaction of the Private Members' Business which originates in the House. The Speaker may allot different Fridays for the disposal of different classes of such business and on Fridays so allotted, for any particular class of business, business of that class shall have precedence. The Speaker may also, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of Private Members' Business. Further, if there is no sitting of the House on a Friday, the Speaker may direct that two and half hours on any other day in the week may be allotted for the Private Members' Business.

Order of Relative Precedence of Private Members' Bills On a day allotted for the disposal of Private Members' Bills, such bills shall have relative precedence in the following order :

- (a) Bills in respect of which the motion is that leave be granted to the introduction of the Bill.
- (b) Bills returned by the President with a message under Article 111 of the Constitution.
- (c) Bills which have been passed by the House and returned by the Council with amendments.
- (d) Bills which have been passed by the Council and remitted to the House.
- (e) Bills in respect of which a motion has been carried that the Bill be taken into consideration.
- (f) Bills in respect of which the Report of a Joint and Select Committee has been presented.
- (g) Bills which have been circulated for the purpose of eliciting opinions thereon.

- (h) Bills introduced and in respect of which no further motion has been made or carried ;
- (i) Other bills.

The relative precedence of Bills falling under the same clause will be determined by ballot to be held in accordance with the orders made by the Speaker and on such day and in such manner as the Speaker may direct.

(12) PANEL OF CHAIRMEN

At the commencement of the House or from time to time, as the case may be, the Speaker shall nominate from amongst the members, a panel of not more than six Chairmen. Any one of them may preside over the House in the absence of the Speaker or Deputy Speaker, when so requested by Speaker or in his absence by the Deputy Speaker. The panel remains operative till a new panel of chairmen is nominated.

(13) CLOSURE

At any time during the debate, a member may move for the closure of the debate. Such a motion, before it is made, must have the consent of the Speaker who before giving his consent satisfies himself that the

- (i) motion is not an abuse of the Rules of Procedure and Conduct of Business ; or
- (ii) an infringement of the right of reasonable debate on the subject

When the motion is carried, the question or questions thereon are put without debate. The Speaker may, however, allow any member a right of reply, which he may have under rules.

(14) RESTRICTION ON MEMBERS OF PARLIAMENT

A member of Parliament, while speaking, should not :

- (1) refer to any matter which is *subjudice* ;
- (2) make a personal charge against any member ;
- (3) use offensive expression about the conduct or proceedings of Parliament or any State Legislature ;
- (4) reflect on any determination of the House except on a motion for rescinding it ;
- (5) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper form ;
- (6) use the President's name for the purpose of influencing the debate ;
- (7) utter unreasonable, seditious or defamatory words ; and

- (8) use his right of speech for the purpose of obstructing the business of the House

(15) AMENDMENT OF CLAUSES OF A BILL

The notice of an amendment to a clause of a bill has to be given one day before the day on which the bill is to be considered. The amendment should be

- (a) within the scope of the bill ,
- (b) relevant to the subject matter to which it relates ,
- (c) not inconsistent with any previous decision of the House on the same question ; and
- (d) intelligible.

The Speaker has the power to determine the place at which an amendment should be moved. Also he may call for from the members concerned such explanation of the objects of the amendment as may enable him to form a judgment upon it. The amendments are arranged in the order, in which they may be called and are considered in order of the clauses of the Bill to which they respectively relate.

After the general discussion on a bill is over and the motion that the bill be taken into consideration has been carried, clause-by-clause consideration of the bill is taken up. At this stage every clause is open to amendment. Any member, when called by the Speaker, may move an amendment to the bill of which he has previously given notice. In order to save time and repetition of arguments, a single discussion may be allowed covering a series of inter-dependent amendments. The Speaker may call each clause separately and when the amendments relating to it have been dealt with, he shall put the question "That this clause (or that this clause as amended) stand part of the Bill."

(16) SHORT NOTES

(i) No-Day-Yet-Named Motion

If the Speaker admits a motion and no date is fixed for the discussion of such motion, it shall immediately be notified in the Bulletin under the heading 'No-Day-Yet-Named Motions'. All admitted notices of 'No-Day-Yet-Named Motions' are placed before the Business Advisory Committee for allocation of time. After time is allocated to such a motion, it is up to Government to include them in agenda for discussion in the House.

(ii) Discussion on a matter of Urgent Public Importance for Short Duration .

This is liberalisation of Adjournment Motion and Half-An-Hour Discussion. Any member, desiring of raising discussion

on a matter of urgent public importance, should give notice in writing to the Secretary specifying clearly and precisely the matter to be raised. The notice should be accompanied by an explanatory note, stating reasons for raising the discussion on the matter in question. Also it should be supported by the signatures of at least two other members. Such a motion can be discussed for a short time not exceeding 2½ hours, provided the Speaker admits the notice on the grounds of urgency and public importance and the Government agrees to find the time.

(iii) **Calling Attention Motion**

It enables the Members of Parliament to call the attention of the Minister to any matter of urgent public importance with the previous permission of the Speaker. The Minister concerned may make a brief statement or ask for time for making a statement at a later hour or date. No provision has been made for discussion on such a motion. Not more than one such matter can be raised at the same sitting. The proposed matter is raised after the questions and before the list of business is entered upon and at no other time.

(iv) **Messages from the President**

Under Article 86 (2) of the Constitution, President is empowered to send messages to each House of Parliament for consideration. When such a message is received by the Speaker/Chairman, he shall read the message to the House and give necessary directions in regard to the procedure that shall be followed for the consideration of the matter referred to in the message. In giving such directions, the Speaker/Chairman shall be empowered to suspend or vary the rules to such extent as may be necessary.

(v) **Point of Order**

(*I.A.S. Main, 1989*)

(1) A point of order relates to the interpretation or enforcement of the Rules of Procedure and Conduct of Business in the House on such Articles of Constitution as regulate the business of the House. It should raise a question within the cognisance of the Speaker.

(2) A point of order may be raised in relation to the business before the House at the moment. The Speaker may, however, allow a Member to raise a point of order during the interval between the termination of one item of business and commencement of another, if it relates to maintenance of order or arrangement of business before the House.

(3) No debate is allowed on a point of order but the Speaker may hear the member before giving the decision.

(4) A point of order is not a point of privilege.

(5) A member should not raise a point of order.

(i) to ask for information, or

- (ii) to explain his position ;
- (iii) when a question on any motion is being put to the House ;
- (iv) which may be hypothetical ; or
- (v) that Division Bells did not ring or were not heard.

(vi) **Vote on Account**

A motion for vote on account should state clearly the total sum required and the various amounts needed for each Ministry/Department. Items of expenditure which comprise that sum should be stated in a schedule appended to the motion. Amendments may be moved for the reduction of the whole grant or for the reduction or omission of the items whereof the grant is comprised. Discussion of a general nature may be allowed on the motion or any amendments moved therefo; but the details of the grant should not be discussed further than is necessary to develop the general points. In other respects a motion for Vote on Account should be dealt with in the same way as if it were a demand for grant.

(vii) **Subordinate Legislation**

Rules, Regulations, sub-rules or bye-laws framed in pursuance of the Constitution or the legislative function delegated by Parliament to a subordinate authority are called Subordinate Legislation.

Where a Subordinate Legislation is laid before the House, the period specified in the Constitution or the relevant Act for which it is required to be so laid, should be completed before the House is adjourned *sine die* and the latter prorogued, unless otherwise provided in the Constitution or the relevant Act.

Where the specified period is not so mentioned, the Subordinate Legislation should be re-laid in the succeeding session or sessions until the said period is completed in one session.

EXERCISES

1. When is the joint session of the two Houses of Parliament held ? Who summons the sitting ? Who presides over it ?
(I.A.S. Main, 1982)
2. Write a short note on "Procedure relating to Money Bills to be passed by Parliament".
(I.A.S. Main, 1980)
3. Discuss the methods by which Parliament controls public expenditure in India
(I.A.S. Main, 1986)
4. Discuss the privileges of the Members of Parliament.
(I.A.S. Main, 1988)
5. What is meant by "Sovereignty of Parliament". Consider whether the Indian Parliament is a sovereign body.
(I.A.S. Main, 1982)

6. When a member of Lok Sabha qualified to be appointed the leader of the opposition. (I.A.S. Main, 1981)

7. What is Parliamentary democracy ? How does the Indian Parliament exercise control over the Union Executive. Assess the role of the Standing Committees of Parliament in the exercise of control. (I.A.S. Main, 1981)

8. How does the Parliament seek to exercise control over the public sector undertakings ? (I.A.S. Main, 1986)

9. What is Public Accounts Committee of Parliament ? (I.A.S. Main, 1982)

10. Discuss the powers, privileges and immunities of the Indian Parliament. (I.A.S. Main, 1989)

11. Answer any two of the following in about 150 words each :

(a) Examine the powers and functions of the Speaker of the Lok Sabha.

(b) Explain the relevance of Rajya Sabha as a second chamber in the Federal set-up of the Indian Parliamentary System.

(c) Discuss the relationship between the Executive and Legislative wings with reference to India. (I.A.S. Main, 1989)

12. Answer any four in about 25 words each :

(a) What is meant by a Cut Motion in Parliament ?

(b) Discuss the value of the Consultative Committees of the Government of India.

(c) Distinguish between a Starred Question and an unstarred question as asked in the Parliament.

(d) How is breach of Parliamentary Privilege different from Contempt of the House.

(e) "There are certain spheres where Rajya Sabha alone has the authority". What are they ?

(f) Explain what is a point of order ? When can it be raised ? (I.A.S. Main, 1989)

The State Governor and Legislature

1. GOVERNOR OF A STATE

The Governor is the executive head of a State in India. Article 154 of the Constitution vests all the executive powers of the State in the Governor, which are exercised by him either directly or through officers subordinate to him in accordance with the Constitution. It may be noted that the Governor of a State, like the President of India, is only a constitutional head and the real powers are exercised by the Council of Ministers headed by the Chief Minister.

Appointment

(I.A.S. Main, 1989)

The Governor of a State is appointed by the President by a warrant under his hand and seal. However, a convention has been evolved that while making the appointment of the Governor of a State, the President consults the Chief Minister of the State concerned. Further, generally the Governor is an outsider and does not belong to the State where he is appointed. This convention ensures that the Governor should be an impartial person without any commitments to the local party politics and be able to take an objective view of the problems facing the State.

Qualifications

A candidate for the office of the Governor must possess the following qualifications :

- (a) He must be a citizen of India.
- (b) He must not be less than thirty-five years of age.
- (c) He should not be a member of either House of Parliament or of a House of the Legislature of any State. If any such person is appointed as Governor, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as the Governor.
- (d) He must not hold any other office of profit. It is noteworthy that the membership of the Council of Ministers, Presidentship, Vice-Presidentship, etc., are not considered as offices of profit for this purpose.

Term of Office

The Governor enjoys a term of five years from the date on which he enters upon his office. In actual practice he continues to hold the office till his successor enters upon it even beyond his normal term. Constitutionally, the Governor holds office during the pleasure of the President, which seems to suggest that the President can remove him from office even before the expiry of his normal term of five years. The Governor can also vacate his office earlier by tendering his resignation to the President. In case of death resignation or removal of the Governor, the Chief Justice of the High Court of that State acts as the Governor till a new Governor is appointed.

Oath

Before entering upon his office the Governor has to make and subscribe in the presence of the Chief Justice of the High Court exercising jurisdiction in relation to the State, or in his absence, the senior-most judge of that Court available, an oath or affirmation in the following form

"I, A B., do swear in the name of God that I will faithfully solemnly affirm execute the office of the Governor (or discharge the function of the Governor) of _____ (name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the 'people of _____ (name of the State)'"

Salary and Allowances, The Governor of a State gets a monthly salary of Rs 11,000. In addition he is also entitled to such other allowances which may be determined by the Parliament by law. He is also entitled to a free official residence. The salary and allowances of the Governor are charged to the Consolidated Fund of the State and cannot be varied to his disadvantage during his tenure of office. If the same person acts as the governor of two or more States, his salary and allowances are apportioned amongst the States, of which he is a Governor, in such proportion as may be determined by the President.

Like the President of India, the Governor of a State also enjoys certain immunities. He is not answerable before any court for the exercise or performance of his powers and duties of his office or any act done in the exercise thereof. No criminal proceedings can be launched against the Governor during his term of office, nor can the Courts issue any warrant of imprisonment of a Governor during his term of office. However, legal proceedings can be instituted against the Governor during his term of office but at least two months' notice has to be served on him regarding the details of the case before instituting such proceedings.

Powers of a Governor

(I A S. Mam, 1988)

The Constitution bestows very extensive powers on the Governor which he is expected to exercise on the advice of the Council of Ministers. In certain cases the Governor can also act on his own discretion. For the sake of convenience the powers of the Governor may be studied under the following heads :

(1) Executive Powers : The Constitution vests the entire executive powers of the State in the Governor which have to be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. In other words, all the executive actions of the State are taken in the name of the Governor. The executive authority of the Governor extends to all those matters with respect to which the Legislature of the State has power to make laws. It is the responsibility of the Governor to ensure that the laws passed by the Parliament in relation to his State are faithfully executed in the State.

All major appointments of the State are made by the Governor. Thus he appoints the Chief Minister of the State and on his recommendation the other members of the Council of Ministers. He also administers oath of office and secrecy to the members of the Council of Ministers. The allocation of portfolios among the various members is also done by the Governor on the recommendation of the Chief Minister. The Ministers hold office during the pleasure of the Governor, which seems to suggest that he can remove them at will. However, in practice, the Governor cannot remove the ministers so long as they enjoy the support of the majority of the members of the State Legislature.

The Governor makes rules for the convenient transaction of the business of the State and allocation of business among the various ministers. The other important appointments made by the Governor of the State include the Advocate General, Members and Chairman of the State Public Service Commission, etc.

The Governor has a right to be kept informed about all the decisions taken by the Council of Ministers as well as the proposals for legislation. He can also call for any other information relating to the administration of the State and ask the Chief Minister of the State to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by the minister but which has not been considered by the Council of Ministers as a whole.

But probably the most significant executive power enjoyed by the Governor of a state relates to his right to report to the President that a situation has arisen or is likely to arise under which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. It is on the basis of this report from the Governor that the President can make a proclamation of

emergency ; the Governor acts as the representative of the President and comes to wield very effective powers.

(2) Legislative Powers : Like the President of India, who is an integral part of the Parliament, the Governor of the State is an integral part of the State Legislature and has been bestowed with numerous legislative powers. Some of the important legislative powers enjoyed by the Governor are as follows : (a) He can summon or prorogue either House of the State Legislature and has power to dissolve the Legislative Assembly. (b) He can address the Legislative Assembly (or both Houses where the State Legislature is bicameral) at the commencement of the new session after each general election and the first session every year. (c) He can send messages to the State Legislature on a bill pending before it or otherwise. (d) If the offices of both Speaker and the Deputy Speaker of the Legislative Assembly fall vacant, the Governor can appoint any member of the State Legislative Assembly to preside over the House. Such a member shall discharge all the duties of a Presiding Officer till the Assembly elects its own Speaker. Similarly, if the offices of the Chairman and the Deputy Chairman of the Legislative Council fall vacant, he can make *ad hoc* arrangements in the like manner. (e) In those states where the Legislative Council exists the Governor appoints one-sixth of its members from amongst persons who have special knowledge of art, literature, science, co-operative movement and social service. He can also nominate some members to the Legislative Assembly from the Anglo-Indian community, if he feels that the community has not received adequate representation otherwise. (f) On the advice of the Election Commission the Governor can decide the case regarding disqualification of any member of the State Legislature. (g) All the bills passed by the State Legislature must receive the assent of the Governor before they can reach the statute book. The Governor reserves the right to withhold his assent or return the bill (other than a money bill) for the reconsideration of the House. However, if the Legislature repasses the bill with or without amendments, the Governor has to append his signature to the bill. The Governor also enjoys the power to reserve certain types of bills passed by the State Legislature for the assent of the President. (h) During the recess of the State Legislature, the Governor can issue ordinances which have the same force as a law enacted by the State Legislature. However, these ordinances cease to operate at the expiry of six weeks from the date of reassembly of the Legislature or earlier if it passes resolution disapproving such an ordinance.

(3) Financial Powers : In the financial sphere it is the duty of the Governor to lay before the House or Houses of the State Legislature a statement of estimated receipts and expenditure of the State for the ensuing year. It means that no demands for grant can be presented before the State Legislature without the recommenda-

tion of the Governor. The responsibility for the submission of supplementary or additional grants, if any, also rests with the Governor. In actual practice this power of the Governor is exercised by the Party in power

The Contingency Fund of the State has also been placed at the disposal of the Governor who is empowered to make advance out of it to meet unforeseen expenditure. However, all such advances must be subsequently approved by the State Legislature and regularised.

4. Judicial Powers - The Governor is consulted by the President while making appointment of the judges of the State High Court. He enjoys full powers with regard to the appointments, postings and promotions of the district judges and other judicial officers of the state. As head of the State he enjoys the power to grant pardon, reprieve, respite or remission or punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends.

(5) Discretionary Powers (i) He determines whether the Government of a State can or cannot be carried on in accordance with the provisions of the Constitution. If he feels that it cannot be carried on, he can make a report to the President under Article 356 (1). (ii) If after the general elections, no single party is able to secure a clear majority or post-election splits reduce the majority to a minority, the Governor can use his own discretion to determine which party has best chances of forming a stable government. (iii) In case the Governor comes to conclusion that none of the parties represented in the legislature is in a position to form a stable government, he can in his discretion dissolve the legislature and order fresh elections. (iv) The Governor can reserve a bill or bills passed by the State legislature for consideration of the President.

(I.A.S. Main, 1990)

(6) Miscellaneous Powers : The miscellaneous powers of the Governor include (a) the right to receive the reports of the Auditor-General regarding the income and expenditure of the State and to place the same before the State Legislature; (b) the right to receive the annual report of the State Public Service Commission and to transmit the same to the Council of Ministers for its comments. After these comments are received, the report along with the comments is placed before the Legislature. (c) He is the Chancellor of all the Universities within the State and appoints the Vice-Chancellors of these Universities. However, in making these appointments he is chiefly guided by the Chief Minister of the State and the Union and State Education Ministers. In fact the Governor has hardly any discretion in making these appointments.

Position of the Governor

It is evident from the above survey of the powers of the Governor that he has been assigned an important position in the State Government machinery. Though he is expected to behave like a constitutional head and act on the advice of the Council of Ministers, his position fundamentally differs from that of the President of India *vis a vis* his Council of Ministers. Article 163 (1) of the Constitution clearly lays down that "There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, *in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion*". If we compare this provision with Article 74 (1) dealing with the relationship of the President with the Council of Ministers, we will find that while the President is bound to exercise his functions in accordance with the advice of the Central Council of Minister, there is no such stipulation of the binding nature of the advice of the Council of Ministers so far as the State Governor is concerned. It only suggests that the Governor is normally expected to act as a constitutional head of the State, but under certain circumstances he can also exercise his discretion. However, the Constitution does not specify the subjects and the field in which the Governor may exercise his discretion, although it can be easily implied that in the above mentioned cases the Governor can act without the advice of the Council of Ministers.

It may be further noted that the Constitution specifically provides that if any question arises whether any matter is or is not a matter in respect of which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion. However, the Governor is not expected to act in his discretion in a manner prejudicial to the norms of parliamentary democracy.

Position of the Governor after 1967

The position and role of the Governor of a State underwent a great change after the Fourth General Elections of 1967. So far the Congress Party had enjoyed a position of dominance at the Centre as well as in most of the States, which did not permit the Governor to act on his own. After the elections of 1967, in a number of States the Congress was relegated to the position of a minority and governments were formed by a combination of different political parties without any coherent policies. This provided the right type of atmosphere for the Governors to exercise their discretion and powers. In a number of States like Rajasthan, Madhya Pradesh, West Bengal etc., differences cropped up between the Governors and the Chief Ministers. While the Chief Ministers asserted that the Governor

was only a constitutional ruler and was bound by the advice of the Council of Ministers, the Governors took the stand that they were very much within their rights to use their discretion. This situation persisted till 1971 when the Congress again succeeded in capturing power at the Centre as well as in most of those States where it had been pushed out of power in 1967.

During this intervening period efforts were made to define the role of the Governor in the State administration. Mr V V. Giri, the then President of India, appointed a Committee under the then Kashmir Governor Bhagwan Sahay and four other Governors, to study the provisions of the Constitution relating to the power of appointment of Council of Ministers, summoning and dissolving of Legislative Assemblies and reports regarding failure of constitutional machinery in the State etc. The Committee submitted its report in October, 1971. However, it desisted from laying down rigid guidelines for the State Governors and asserted that erosion of democracy can be prevented only by greater discipline among legislators and parties rather than by laying down a set of rules for the Governors. However the Committee admitted that the Governor was bound to accept the advice of the Chief Minister although he could record his objections regarding the actions of the Council. The recommendations of the Committee were discussed at the Annual Conference of Governors in November, 1971, but the idea of laying down the guidelines for the Governors did not find favour with them.

Once again with the victory of Janata party in 1977 at the Centre as well as a number of States, the role of the Governor evoked controversy. The Governors tried to act at the behest of Central Party leaders and tried to act in a partisan manner. With the fall of the Janata Government and formation of Congress(I) Government at the Centre once again the Governors of States were involved in narrow party politics and were used as tools for the furtherance of party interests. Thus the Governor of the State has ceased to be a mere constitutional head of the State and more often than not acts as a tool of the Party in the power at the Centre. The controversy continues to rage in the National Front Government, which came into power at the centre in 1989.

2 STATE COUNCIL OF MINISTERS

The Constitution provides for a Council of Ministers in each State on the pattern of the Union Council of Ministers. Article 163(1) of the Constitution provides "There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion." The Constitution does not specify

the strength of the Council of Ministers and leaves it entirely to the discretion of the Chief Minister. The formation of the Council of Ministers starts with appointment of the Chief Minister. The Governor of the State is free to appoint any one as Chief Minister who in his opinion enjoys the confidence of the Legislative Assembly and is likely to provide a stable government. However, in actual practice he has to invite the leader of the majority party in the State Legislature to become the Chief Minister. The other members of the Council of Ministers are appointed by the Governor on the advice of the Chief Ministers.

Qualification

The Constitution does not lay down any qualification for a member of the Council of Ministers except that he must be a member of either of the two Houses of the State Legislature. A non-member can also be appointed as a Minister but he must get a seat in either of the two Houses within six months from the date of his appointment, otherwise he shall cease to be a minister. Thus it is implied that the members of the Council of Ministers must possess the qualifications prescribed for the members of the State Legislature.

Oath

Each member of the Council of Ministers has to subscribe to the oath of office and secrecy before entering upon his office. The oath of Office runs like this :

“I A B, do Swear in the name of God that I will bear true solemnly affirm
faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for the State of———(name of the State) and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour affection or illwill.” In the oath of secrecy the members undertake “not to communicate or reveal to any person or persons any matter which is brought to their consideration or becomes known to them as Minister for the State, except as may be required for the due discharge of their duties”

Term

The members of the Council of Ministers hold office during the pleasure of the Governor. This seems to suggest that the members of the Council of Ministers stay in office at the pleasure of the Governor and he can remove them from office at will. This is, however, not true. The Council of Ministers stays in office as long as

they enjoy the confidence of the majority of the members of the State Legislature. As the Council of Ministers works on the principle of collective responsibility, a vote of no-confidence against any member of the Council may lead to the resignation of the entire body. In case of the death or resignation of the Chief Minister, the Council of Ministers is dissolved and a fresh ministry is formed. Usually the senior-most member of the outgoing Council of Ministers is requested to continue as the care-taker Chief Minister, till a regular appointment is made. The individual members of the Council of Ministers can also relinquish their office by tendering voluntary resignation.

Salary and Allowances

The salary and allowances of the members of the Council of Ministers are determined by the Legislature of the State from time to time. These expenses are charged to the Consolidated Fund of the State and are not subject to the vote of the State Legislature.

Powers and Functions

The Constitution is absolutely silent about the powers and functions of the Council of Ministers. The only provision of the Constitution which deals with the power of the Council of Ministers states "There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion" [Article 163(1)]. This provision suggests that the Council of Ministers is there simply to aid and advise the Governor in the exercise of his functions. But in reality the Council of Ministers is the real executive of the State. Though the entire administration of the State is carried on in the name of the Governor, in reality the powers are exercised by the Council of Ministers. The Governor cannot afford to go against the Council of Ministers in normal times. But under certain circumstances, he has certain discretionary powers which he can exercise without the advice of the Council of Ministers. It is noteworthy that those occasions are rather very limited. For the sake of convenience the powers of the Council of Ministers may be studied under the following heads:

(1) **Executive Powers** : In the executive field the Council of Ministers is the highest authority of the State and is responsible for running the administration of the State in accordance with the provisions of the Constitution. It not only formulates the policy of the government but also tries to give a practical shape to that policy. It may be noted that while important policy decisions are collectively taken by the Council of Ministers, in the less important matters the individual ministers take policy decisions. Once a policy has been accepted by the Council of Ministers, all the members are expected

to justify it on the floor of the State Legislature as well as outside. Within the Department it is the duty of the Minister to ensure proper implementation of the policy. With a view to ensure that the various departments do not pull in different directions and there is cohesion in the policy pursued by different ministers, the Council of Ministers brings about the necessary co-ordination in their policies. In short, the Council of Ministers is not only concerned with the formulation of the policy of the State Government but is also responsible for giving it a practical shape.

(2) **Legislative Powers** . The members of the Council of Ministers are intimately connected with the State Legislature and as such play an important role in determining its legislative programme. The business and time table of the State Legislature is decided by the Council of Ministers. Almost 90 per cent of the bills are introduced in the State Legislature by the members of the Council of Ministers. These bills are easily passed by the State Legislature because the Council of Ministers enjoy the backing of the majority of the members. The bills introduced by the ordinary members of the State Legislature stand no chance of passage unless they enjoy the support of the Council of Ministers.

3 **Financial Powers** The Council of Ministers also enjoys extensive financial powers. It is the responsibility of the Council of Ministers to formulate the budget proposals for the year and present the same to the State Legislative Assembly for approval. Though the Legislative Assembly reserves the right to refuse, reduce or reject the demands presented by the Council of Ministers, in reality this never happens. Generally the demands presented by the Council of Ministers are approved by the State Legislature without any change. Only those changes are effected in those demands which are acceptable to the Ministers. The responsibility for formulating the proposals for taxation etc., also rests with the Council of Ministers. The State Legislature does not enjoy any power to propose new taxes etc.

(4) **Formulation of Plan** : The Council of Ministers plays a vital role in the preparation of the Five Year Plans for proper utilisation of the resources and energies of the State. After the plan has been prepared by the Council of Ministers it is submitted to the Planning Commission for approval and sanction. After it is scrutinised and approved by the Central Authorities, it is the duty of the Council of Ministers to help in implementing the plans.

3. STATE CHIEF MINISTERS

The Chief Minister of the State enjoys a position analogous to the Prime Minister at the Centre and exercises the real executive

authority of the State. He is appointed by the Governor of the State. Generally the Governor appoints the leader of the majority party in the State Legislature as Chief Minister. But if no single political party has a clear cut majority in the State Legislative Assembly, the Governor may have some discretion in the selection of the Chief Minister. However, while inviting a person to become the Chief Minister, the Governor has to satisfy himself that he shall be able to muster the support of the majority of the members of the Legislative Assembly.

Qualifications

The Constitution does not prescribe any qualifications for the office of the Chief Minister, although it is expected that he must be a member of the Legislative Assembly. It may be noted that there is no constitutional bar to the appointment of outsiders as Chief Minister. On a number of occasions persons have been appointed as Chief Minister even though they were not members of the State Legislature. There have even been instances where the leaders defeated at the polls were appointed the Chief Ministers. The case of Shri Morarji Desai, who was appointed Chief Minister of Bombay, even though he was defeated at the polls, is an instance. However, like other member of the Council of Ministers, he must become a member of the State Legislature within six months, otherwise he shall cease to be the Chief Minister.

Term

There is no fixed term for the Chief Minister. Constitutionally he stays in office during the pleasure of the Governor but in actual practice he stays in office as long as his party enjoys majority support in the State Legislature. Under normal circumstances the term of the Chief Minister is a little over five years because he stays in office till after the general elections of the State Legislature, which are generally held after every five years. The term of the Chief Minister is automatically extended if the life of the State Legislature is extended. His term can be cut short by his resignation, death or removal from the party leadership.

Powers of the Chief Minister

As the real executive head of the state administration the Chief Minister enjoys very extensive powers. His powers may be studied under the following heads:

(1) **In relation to Council of Ministers** The Chief Minister enjoys a central position in the Council of Ministers and is vital to its formation as well as its life. The formation of the Council of Ministers starts with the appointment of the Chief Minister. The other members of the Council of Ministers are appointed by the Governor on the advice of the Chief Minister. Even the

the allocation of portfolios and the removal of the ministers is the prerogative of the Chief Minister. A minister stays in the Council only as long as he enjoys the confidence of the Chief Minister. A minister, who has lost the confidence of the Chief Minister, can be asked to tender his resignation. However, if a minister is reluctant to comply with the desire of the Chief Minister he can be dropped from the Ministry through reshuffling of the Cabinet. In extreme cases the Chief Minister can even seek the dismissal of the minister through the Governor of the State.

The Chief Minister presides over meetings of the Council of Ministers and greatly influences the deliberations and decisions of the Council. He brings about necessary co-ordination in the working of the various departments and resolves all the differences between two or more ministers. In fact it is his duty to ensure that the Council of Ministers works as a team and can face the State Legislature collectively.

(2) **In relation to Governor** The Chief Minister is the chief link of communication between the Governor and the Council of Ministers. It is his duty to communicate to the Governor of the State all the decisions of the Council of Ministers relating to the administration of the affairs of the State and proposals for legislation. If the Governor so requires, the Chief Minister has to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council. He is also duty-bound to supply to the Governor information on such matters relating to the administration of the State or proposals for legislation as the Governor may call for. The power of making all major appointments in the State government, vested by the Constitution in the Governor, is in actual practice exercised by the Chief Minister.

(3) **In relation to Legislature** The Chief Minister of a State has very close relations with the Legislature. As the leader of the majority party he exercises profound influence on its working. The agenda of the Legislative Assembly (as well as the Legislative Council if there are two Houses) is determined by the Speaker in consultation with the Chief Minister. The Chief Minister also plays a vital role in the deliberations and discussions of the House. He makes all important policy announcements on the floor of the House and defends the policies of his government. He reserves the right to intervene in the debate of the House and defend the actions of other members of the Council of Ministers. In fact, the House always looks up to the Chief Minister for all important policy announcements. The Chief Minister also reserves the right to recommend to the Governor the dissolution of the Legislative assembly even before the expiry of its term. However, the Governor is not bound by the advice of the Chief Minister.

Position of the Chief Minister

The position of a Chief Minister depends on a number of factors viz the position of his party in the State Legislature and his relations with the party High Command. If the Chief Minister's party has a clear-cut majority in the State Legislature and he has complete control on the members, he is able to dominate the administration of the State. But above all his position depends on the factor whether his party is also in control of the Government at the Centre or not. It is quite obvious that the position of a Chief Minister of a party, which does not hold power at the Centre, is ever shaky because he cannot expect a subservient Governor. On the other hand, if his own party is also in control of Government at the Centre, he is assured of a co-operative Governor and is able to dominate within reasonable limits. The position of a Chief Minister heading a coalition government is the weakest of all. He has not only to make efforts to keep the various partners united and prevent cracks in the government, but has also to follow the directions of the Coordination Committee with regard to the management of the government.

4 THE STATE LEGISLATURE

The State Legislature consists of Governor and one or two Houses. It means that in India while some States have bicameral legislatures, the others have unicameral legislatures. At present only six States viz Bihar, Karnataka, Maharashtra, Tamil Nadu, Uttar Pradesh and Andhra Pradesh possess bicameral legislatures while the rest of the States have unicameral legislatures. The states which have only one house, the House is known as the Legislative Assembly. On the other hand in a state with two Houses, the two Houses are respectively known as Legislative Assembly and the Legislative Council. The Constitution makes provision for the establishment or abolition of the Legislative Councils in the States. Article 169(1) provides "Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting." Thus the existence of the second chamber (Legislative Council) in the states largely depends on the wishes of the popular House.

5 LEGISLATIVE ASSEMBLY

The Legislative Assembly is the popular House of the State legislature and consists of representatives directly elected by the

people of the State on the basis of universal adult franchise. Its strength in different States varies from 60 to 500, depending on the population of the State. The constituencies for the election of the members of the Assembly are so drawn that the ratio between the population of each constituency and number of seats allotted to it are, as far as practicable, the same throughout the State. It may be noted that the strength of the State Legislative Assembly is determined on the basis of the population as ascertained at the last preceding census. However, the Forty-second Amendment has provided that "until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the total number of seats in the Legislative Assembly of each State and the division of such State into territorial constituencies".

Qualifications

The candidates for election to the Legislative Assembly are expected to possess the same qualifications as are prescribed for the members of the Lok Sabha viz (a) he must be a citizen of India, (b) he must be more than 25 years of age, (c) he must not hold any office of profit, (d) he must possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament, (e) he must make and subscribe before some person authorised in that behalf by the Election Commission an oath of affirmation asserting his faith and allegiance to the Constitution of India and undertake to uphold the sovereignty and integrity of India.

Term

Normally the Legislative Assembly enjoys a term of five year and is automatically dissolved as soon as its term expires. However, during the Proclamation of Emergency its term can be extended by the Parliament by law for a period of one year at a time. However, it cannot continue in office beyond this period after, the Proclamation has ceased to operate. The term of the Assembly can be cut short if it is dissolved earlier.

Presiding Officer

The Speaker of the Assembly acts as its Presiding Officer. He is elected by the Assembly from amongst its members at its first session. In addition the Assembly also elects a Deputy Speaker, who discharges the duties of Speaker in his absence. The Speaker and the Deputy Speaker can be removed from their offices by the House by passing a resolution by majority of its total membership. However, before such a resolution is adopted fourteen days' notice regarding the intention to move such a resolution must be given to them.

6 LEGISLATIVE COUNCIL

The Legislative Council is the Upper House of the State Legislature. The seats of the Legislative Council are distributed as follows :

- (a) Roughly one-third of the members are elected by member of municipalities, district boards and such other local authorities in the State as Parliament may by law specify ;
- (b) Roughly, one-twelfth members are elected by persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university ,
- (c) Roughly one-twelfth members are elected by person who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament ,
- (d) Roughly, one-third members are elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly
- (e) The remaining members of the Legislative Council are nominated by the Governor from amongst persons having special knowledge or practical experience in literature science, art, co-operative movement and social service

Qualifications

A candidate for membership of the Legislative Council (a) must be a citizen of India , (b) must not be less than 30 years' of age . (c) must possess such other qualifications as may be prescribed in that behalf by the Parliament ; (d) must make and subscribe before some person authorised in that behalf by the Election Commission, an oath or affirmation according to the form set out for the purpose.

Term

Like the Rajya Sabha at the Centre, the Legislative Council is a permanent House and is never dissolved as such. Only one-third of its members retire every two years after completing a term of six years and they are replaced by new members

Presiding Officer

The presiding officer of the Council is known as Chairman. He is elected by the members of the Legislative Council from amongst themselves. In addition, the Council also elects a Deputy Chairman, who discharges all the duties of the Chairman in case of his absence or leave. The Council can remove them by passing a resolution by an absolute majority. However, such a resolution can be moved only after a fourteen days notice has been served on them.

7 POWER AND FUNCTIONS OF THE STATE LEGISLATURE

Legislative Powers The State Legislatures have been empowered to legislate on the 66 subjects enumerated in the State List. In addition they also enjoy the right to legislate on the subjects contained in the Concurrent List. It may be noted that the Parliament also enjoys the right to legislate on the subjects in the concurrent list and generally in case of clash with the State laws on the concurrent subject the Parliamentary laws get precedence.

For the enactment of the ordinary laws the approval of both the Houses of the State Legislature as well as the Governor of the State is essential. But the Legislative Assembly enjoys an over-riding position in this regard. In case of disagreement between the two Houses on any bill, the Legislative Assembly enjoys an over-riding position. Article 197 of the Constitution clearly states that 'If after a bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council (a) the bill is rejected by the Council or (b) more than three months elapse from the date on which that bill is laid before the Council without the bill being passed by it ; or (c) the bill is passed by the Council with amendments to which the Legislative Assembly does not agree , the Legislative Assembly may, subject to the rules regulating its procedure, pass the bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the bill as so passed to the Legislative Council. If, however after a bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council (a) the bill is rejected by the Council , or (b) more than one month elapses from the date on which the bill is laid before the Council without the bill being passed by it ; or (c) the bill is passed by the Council with amendments to which the Legislative Assembly does not agree , the bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by

the Legislative Council and agreed by the Legislative Assembly. In simple language it can be said that the Legislative Council can delay the enactment of a bill passed by the Legislative Assembly for a maximum period of four months. After a bill is passed by the two Houses of the Legislature it is transmitted to the Governor. He may accord his assent to the bill, withhold his assent, return it for reconsideration or even reserve the same for the approval of the President. If the bill to which the Governor has refused to accord his assent or which he has returned to the State Legislature for reconsideration, is repassed by the State Legislature the Governor has to give his assent to the same.

(2) **Constituent Powers** Though the State Legislatures have not been granted any power to initiate amendments to the Constitution their approval is essential in case of certain amendments. Thus the State Legislatures can play their role in the acceptance or rejection of certain types of amendments.

(3) **Financial Powers** The State Legislature possesses the power to raise finances with regard to all those items which have been entrusted to the State Governments. However, all money bills can originate only in the Legislative Assembly and after it is passed by it, the same is transmitted to the Legislative Council for its recommendation. The Legislative Council can make necessary recommendations to the Legislative Assembly within fourteen days of the receipt of the Bill. However, it is up to the Legislative Assembly to accept or reject the recommendations of the Legislative Council. If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the bill is deemed to have been passed by both the Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly. On the other hand if the Legislative Assembly does not accept any of the recommendation of the Legislative Council, the bill is deemed to have been passed by both the Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council. Likewise if the money bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within a period of fourteen days, it is deemed to have been passed by both the Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly. It is thus quite evident that in the financial sphere, the real power rests with the Legislative Assembly and the Legislative Council can only delay the enactment of a money bill for a maximum period of fourteen days.

(4) **Control over Executive** But probably the most important power of the State Legislature is the power to exercise control over the Council of Ministers, which wields the real executive power of the State. The Constitution specifically makes the Council of

Ministers collectively responsible to the State Legislature. It stays in office as long as it enjoys the confidence of the majority of the members of the State Legislature. The State Legislature can criticise the policies of the Ministry and highlight its shortcomings by asking questions and supplementary questions, by moving adjournment motions etc. In extreme cases the Legislative Assembly can oust the Ministry by passing a vote of no-confidence against the Council of Ministers. On its part the Council is also empowered to recommend dissolution of the Assembly to the Governor.

EXERCISES

1. Examine the role and functions of the State Governors as set out in the Constitution of India.
(I.A.S. Main, 1988)
2. How is the Governor of a State appointed in India? Does the manner of his appointment ensure his independent functioning?
(I.A.S. Main, 1984)

6

Judiciary

1. JUDGES OF SUPREME COURT

Appointment of Judges

Every Judge of the Supreme Court is appointed by the President by warrant under his hand and seal after consultation with such Judges of the Supreme Court and of the High Courts as the President may deem necessary for the purpose. In case of appointment of a Judge, other than Chief Justice, the Chief Justice of India is to be necessarily consulted. A Judge of the Supreme Court remains in office until he attains the age of 65 years. No person can be appointed a Judge of the Supreme Court unless (i) he is a citizen of India, (ii) has been for at least 5 years a Judge of High Court or has been for at least ten years an advocate of a High Court or two or more courts in succession, (iii) is in the opinion of the President a distinguished jurist.

Privileges

A Judge of the Supreme Court is entitled to such salaries as are specified in the Second Schedule. The Chief Justice gets rupees ten thousand per mensem and other judges rupees nine thousand per month. Besides, every Judge of the Supreme Court is entitled to the use of an official residence without rent. Also every judge is entitled to such privileges and allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by the Parliament.

Removal

A Judge of the Supreme Court can only be removed from office by an order of the President passed after an address by each House of Parliament supported by a majority of not less than two-thirds of the members of that House present and voting, has been presented

the President in the same session for such removal of the ground of proved misbehaviour or incapacity. The Parliament has been empowered to regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under article 124.

2. COMPOSITION AND FUNCTIONS OF THE SUPREME COURT

Composition

The Supreme Court is the highest Court of Justice in India. It consists of one Chief Justice and 25 other Judges. Provision has also been made for the appointment of *ad-hoc* judges and even the retired judges may be at times, when the necessity arises, requested to be present.

Powers and Functions

(I.A.S. 1962)

The Supreme Court is a Court of Record and exercises all the powers of such a court, including the power to punish for the contempt of itself. Its main functions may be studied under the following heads.

(1) **Original Jurisdiction** : The Supreme Court has exclusive jurisdiction in all disputes—

- (a) between the Government of India and one or more States ;
- (b) between the Government of India and any State or States on one side and one or more States on the other sides ;
- (c) between two or more States.

Such jurisdiction, however, does not extend to a dispute out of any treaty, agreement, covenant, engagement or sanad or any similar instrument which was executed before the commencement of the Constitution.

(2) **Appellate Jurisdiction in certain cases** ; An appeal to the Supreme Court lies from any judgement, decree or final orders of a High Court on a certificate from a High Court concerned that the case involves a substantial question as to the interpretation of the Constitution.

(3) **Appellate Jurisdiction in Civil cases** : In civil cases, an appeal lies to the Supreme Court, if the High Court concerned certifies that—

- (i) the case involves a substantial question of law of general importance , and

- (ii) in the opinion of the High Court the said question needs to be decided by the Supreme Court.
- (4) **Jurisdiction in criminal cases :** In criminal cases an appeal lies to the Supreme Court if the High Court concerned—
 - (i) has on appeal reversed an order of acquittal of an accused person and sentenced him to death ;
 - (ii) has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial sentenced the accused to death ; or
 - (iii) certifies that the case is a fit one for appeal to the Supreme Court

(5) **Advisory Jurisdiction :** The President may refer to the Supreme Court any question of law or fact of sufficient importance for its opinion. The President may also refer to the court disputes arising out of any provision of treaty, agreement, covenant, engagement or sanad etc. The opinion so expressed is not binding on the President

(6) **Enforcement of Fundamental Rights :** The Supreme Court has been armed with power to issue directions or orders or writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warrant*o and *certiorari* for the enforcement of the Fundamental Rights conferred by the Constitution

(7) **Additional Jurisdiction :** Article 138 of the Constitution provides for enlargement of the jurisdiction of the Supreme Court by Parliament with reference to any matter contained in the Union List. It has also jurisdiction on any matter as the Government of India and the Government of any State may, by agreement, confer. But the Parliament has to give effect to this agreement by passing a law

(8) **Power to Review :** The Supreme Court has power to review any judgement or order made by it, subject to any law passed by the Parliament in this regard

(9) **Supplemental powers** Parliament may by law confer such supplemental powers on the Supreme Court as may appear to be necessary and desirable for the due discharge of its functions

Guardian of the Constitution . It is clear from the powers and functions of the Supreme Court that it is the ultimate interpreter of the Constitution and, as such, its guardian. The authority of the Court is further enforced by the provision that "the law declared by the Supreme Court shall be binding on all courts within the territory of India" (Art 141). Further in the exercise of its jurisdiction, the court is authorised to pass appropriate decrees or orders in the interests of complete justice in any case before it. In 1970, the Supreme Court had declared the following Acts of the Parliament as null and void :—

(i) Banking Companies Act, 1969 for the nationalisation of 14 banks.

(ii) Presidential order, de-recognising the former princes.

Truly the Supreme Court acts as the guardian of the Constitution

3 CONSTITUTIONAL FUNCTIONS OF THE SUPREME COURT

(i) **Appellate jurisdiction in matters involving interpretation of Constitution** (I A S 1970)

Article 132 of the Constitution provides that an appeal shall lie to the Supreme Court from any judgement, decree or final orders of the High Court in the territory of India, if the High Court certifies that the case involves substantial question of law as to the interpretation of the Constitution.

(ii) **Judicial Review of Legislation**

The Supreme Court has also been vested with wide powers in the form of judicial review, like the Supreme Court of the U.S.A. According to the right of judicial review, the Supreme Court can declare laws passed by the Parliament unconstitutional on the ground that they contravene the provisions of the Constitution

(iii) **Final interpreter of the Constitution**

The Supreme Court is also the final interpreter of the Constitution. The law declared by the Supreme Court is binding on all Courts within the territory of India. The law declared by the Supreme Court is, however, not binding upon itself because it has the power to review its own judgement

4 INDEPENDENCE OF JUDICIARY

The independence and impartiality of the Supreme Court is the corner-stone of democracy. Justice is said to be blind and this must be so, especially in a democracy which professes all its citizens to be equal in law. Our Constitution ensures the independence of the judiciary through the following measures :

(i) Though appointed by the President, a judge of the Supreme Court can only be removed after an address of each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than 2/3 of the members present and voting on the ground of proved misbehaviour or incapacity

(2) The salary and the conditions of service of a judge of the Supreme Court cannot be varied to his disadvantage after his appointment

(3) After retirement, a judge of the Supreme Court cannot plead or act in any other Court or before any authority within the territory of India

(4) The salaries etc of the judges and administrative expenses of the Supreme Court are chargeable on the Consolidated Fund of India and are, therefore, not votable *(I A S Main, 1984)*

N B The salary of the Chief Justice of India is Rs 10,000 per mensem and any other judge Rs 9,000/- per mensem

5 HIGH COURTS

(a) Appointment

A judge of the High Court is appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and in the case of appointment of a judge other than Chief Justice, the Chief Justice of the High Court. Provision has also been made for the attendance of the retired judges at sittings of the High Court

(b) Qualifications

A person cannot be appointed a judge of a High Court unless—

- (i) he is a citizen of India ;
- (ii) has for at least ten years held a judicial office in the territory of India ; or
- (iii) has for at least ten years been the advocate of a High Court or of two or more such Courts in succession ; or
- (iv) is, in the opinion of the President a distinguished jurist.

(c) Conditions of Service

A judge of a High Court holds office until he attains the age of 62 years. He may be removed from his office in the same manner in which a judge of the Supreme Court is removed (Discussed earlier). The Chief Justice gets a salary of rupees 9,000 per month and any other judge Rs 8000 per month. Besides, every judge is entitled to such allowances and to such rights in respect of leave and

pension as may from time to time be determined by the Parliamentary enactment. His allowances and other rights are not to be varied to his disadvantage after the appointment.

6. JUDICIAL REVIEW

The Supreme Court of India has been vested with power of judicial review, which implies it can review the laws passed by the legislature and orders issued by the executive to determine their constitutionality. In this respect the Indian Supreme Court resembles the American Supreme Court rather than the British Courts, which are obliged to enforce the laws enacted by the Parliament, without going into their constitutionality. The adoption of the federal system and the incorporation of the Fundamental Rights in the Constitution are responsible for the unique position of the Supreme Court in India. It has to see that the Union and the State Governments keep within their respective spheres and the Fundamental Rights granted by the Constitution are not violated. For this purpose it has been granted the power to pronounce on the constitutionality of Central as well as State laws. However, the power of judicial review enjoyed by the Supreme Court is much narrower than the power of judicial review enjoyed by the Supreme Court of U.S.A. The Indian Supreme Court can declare a law as invalid only if it is contrary to the letter of the Constitution. It cannot go behind the law to find out its objectives and to declare it as unconstitutional. In other words, it does not possess any power to question the wisdom or policy of the laws enacted by the Parliament or the State Legislatures.

The working of the Supreme Court for the last four decades has shown that it has generally tried to construct the law in favour of the legislature on the plea that the Legislature consists of the representatives of the people and as such these representatives are the best judges of the suitability of a law. In the case of *Charanjit Lal vs The Union of India*, Justice Mukerjee observed, "The courts should *prima facie* lean in favour of constitutionality and should support the legislation if it is possible to do so on any reasonable ground. In pursuance of this attitude the Supreme Court of India has enunciated the *doctrine of severability*, which implies that only those portions of law are declared void which are inconsistent with the provisions of the Constitution and the rest of the law is permitted to operate. In fact the Supreme Court has played an important role in maintaining constitutional government in the country.

The power of Judicial Review was curtailed under the Forty Second Amendment, but during the Janata rule the position was largely retrieved and the Supreme Court was accorded the position of pride which it enjoyed before the enactment of the Forty-Second Amendment.

(I.A.S. Main 1982)

EXERCISES

1. Write a short note on the 'Role of judiciary in India'.
(I.A.S. Main 1979)
2. Examine the relative roles of the Legislative, Judiciary and Executive in the functioning of the Parliamentary system in India. Is it a fact that the Executive has shown tendency to be more powerful over the years ?
(I.A.S. Main 1982)
3. How will you define judicial review ?
(I.A.S. Main 1982)
4. 'Separation of Powers is essential to ensure individual liberty'. Discuss this with regard to the provisions in the Constitution and practices adopted so far.
(I.A.S. Main 1983)
5. Discuss the importance of the independence of judiciary in a democracy.
(I.A.S. Main 1984)

7

Relations Between The Centre and The States

1. DISTRIBUTION OF LEGISLATIVE POWER BETWEEN UNION AND STATES

The Constitution of India makes a division of legislative powers between the Union and the States. The Union Parliament has powers to make laws for the whole or any part of the territory of India, while the Legislative of a State can make laws for the State concerned. Also, like the Government of India Act 1935, there is three-fold distribution of powers between the Union and the States :—

(1) **Union List** : It includes 97 subjects over which the Union Parliament has exclusive power of Legislation such as Defence, Foreign Affairs, Banking, Currency etc.

(2) **State List** : It comprises 66 items over which the State Legislatures have exclusive powers of Legislation e.g., Health, Agriculture etc.

(3) **Concurrent List** : It comprises 47 items on which the Union and the State Legislatures can make laws e.g., criminal law and procedure, marriages, economic planning, education etc.

(4) **Residuary Powers** : According to Art. 248 of the Constitution, the residuary powers are vested in the Union Legislature i.e. Parliament have exclusive right to make any law with regard to any matter not specified in the concurrent or State List.

Conflict of Jurisdiction

In the case of overlapping of a matter as between the lists, predominance has been given to the Union Legislature. Thus in the case of repugnancy between a law of the State and a valid union law, the latter will prevail and the law made by the State to the extent of repugnancy be void. If, however, the legislation relates to

I.C.

a concurrent subject, the State legislation may prevail, notwithstanding any repugnancy, if the State law was reserved for the President and received his assent

Circumstances in which Parliament may make law on a State subject.
(*I A S Mam, 1982*)

The Union Legislature has power to make laws with regard to matters in the State List in the following circumstances .

(1) **In Normal Times** Parliament have power to make laws, with respect to any matter included in the State List for a temporary period, if the Rajya Sabha declares by a majority of 2/3 of its members present and voting that it is necessary in national interest that the Parliament should have power to legislate over such a subject. Each resolution should give a lease of one year to the law in question.

(2) **Under a proclamation of Emergency :** When a proclamation of Emergency made by the President is in operation, Parliament shall have similar powers. Such Emergency Legislation by Parliament shall cease to have any effect on the expiry of 6 months after the proclamation has ceased to operate

(3) **By agreement between the States :** Parliament may legislate for two or more States in any matter included in the State List, if the Legislatures of those States by resolution so desire. It shall also be open to any other state to adopt such legislation, but the Legislatures of State to which it applies cannot do so

(4) **To implement treaties :** Parliament may pass laws for the whole or part of India to implement an international treaty, agreement or convention. The normal distribution of powers will not affect powers of Parliament to legislate for the State in the matter

(5) **Under a Proclamation of failure of constitutional Machinery in a State .** When such a proclamation is made, the President may declare that the powers of the Legislature of the State shall be exercisable by or under the authority of the Parliament.

(6) **Refusal to obey executive Directions .** If a State disobeys the executive directions from the Union, the President may issue a proclamation transferring the legislative powers of the State to the Parliament.

2 ADMINISTRATIVE RELATIONS

The Union Government have the power to give directions to the State Governments as regards exercise of their executive powers in respect of the following matters :

(A) Normal-Times Directions

(1) To ensure compliance with Union laws and existing laws which apply in that State [Article 256]

(2) To ensure that the exercise of executive powers of State does not interfere with the executive powers of the Union
[Art 257 (1)]

(3) To ensure construction and maintenance of the means of communication of national or military importance by the State
[Art 257(2)]

(4) To ensure protection of railways within the State
[Art 257(3)]

(5) To ensure drawing and execution of schemes specified in the directions to be essential for the welfare of the Scheduled Tribes in the State [Art 339 (2)]

(6) To ensure the provisions of adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to the linguistic minorities. [Art. 350-A]

(7) To ensure the development of Hindi language
[Art 351]

(B) During Emergency

(1) During a proclamation of Emergency, the Union Government is empowered to give directions to any State as to the manner in which the executive power of the State is to be exercised.
[Art 353 (a)]

(2) During a proclamation of failure of constitutional machinery in a State, the President may assume to himself all or any of the executive powers of the State [Art 356 (1)]

(3) During the proclamation of Financial Emergency, the executive authority of the Union extends to the giving of directions to any State .

- (i) to observe such canons of financial propriety as may be specified in the directions ;
- (ii) to reduce the salaries and allowances of all or any class of persons serving in connection with the affairs of State or Union including Judges of Supreme Court and High Courts , and
- (iii) to require that all Money Bills and other financial bills be reserved for consideration by the President when passed by the State Legislature. (Art. 360 (4))

Sanction for ensuring compliance with Directives

Article 365 of the Constitution provides that in the event of non-compliance of directives given to a State by the Union, it shall be lawful for the President to declare that a situation has arisen in which the Government of the State cannot be carried in accordance with the provisions of the Constitution. On such a declaration being made, the provisions of Art. 356 regarding failure of Constitutional machinery will come into operation and the President will assume to himself all or any of the executive powers and thereby have the violated directives carried out.

3. FINANCIAL RELATIONS

Ideally speaking, the best system of federal finance would be one which effected a clear-cut division of sources of the revenue between the Federal and the State Governments so as to make each of the parties financially independent of each other. Indian Constitution makes elaborate provisions regarding the distribution of revenues between the Centre and the States. The financial relations between the Union and the States can be studied under the following heads:

(1) Duties levied by the Union but collected and appropriated by the States : Stamp duties and duties of excise on the medical and toilet preparation are levied by the Government of India, but collected and appropriated by the States within which such duties are leviable except in the Union Territories where they are collected by the Union Government [Art. 268].

(2) Taxes levied and collected by the Union but assigned to the States within which they are leviable : (i) Succession duty in respect of property other than agricultural land (ii) Estate duty in respect of property other than agricultural land (iii) Terminal taxes on goods or passengers carried by railways, sea or air (iv) Taxes on railway fares and freights. (v) Taxes on transactions in stock exchanges (vi) Taxes on sale and purchase of newspapers, including advertisements published therein (vii) Taxes on the sale and purchase of goods other than newspapers, where such purchase takes place in the course of inter-state trade of Commerce [Art. 269].

(3) Taxes levied and collected by the Union and distributed between the Union and the States : Certain taxes are levied as well as collected by the Union, but their proceeds are divided between the Union and the States in a certain proportion in order to effect an equitable distribution of the financial resources. There are :

(a) taxes on income other than agricultural income ,

(b) excise duties as are included in the Union List, excepting medicinal and toilet preparations

(4) Surcharge : The Parliament is, however, authorised to levy surcharge on the taxes mentioned at (2) above and on income-tax for the purpose of the Union.

(5) **Grants-in-aid** : Parliament may make grants-in-aid from the Consolidated Fund of India to such States as are in need of assistance particularly for the promotion of welfare of tribal areas, including special grant to Assam.

(6) **Loans** : The Union Government may make loan to any State or give guarantees with respect to loans raised by any States

(7) **Previous Sanction of the President** : No Bill or amendment can be introduced or moved in either House of Parliament without the previous sanction of the President, if :

- (a) it imposes or varies any tax in which States are interested ; or
- (b) it varies the meaning of the expression Agricultural income as defined in Indian Income-tax Act ; or
- (c) it affects the principles on which moneys are distributed to the States ; or
- (d) it imposes a surcharge on State taxes for the purpose of the Union

(8) According to Article 301, freedom of trade, commerce and intercourse throughout the territory of India is guaranteed, but Parliament has the power to impose restrictions in public interest

(9) Although taxes on income, other than agricultural income, are levied by the Union, yet the State Legislatures can levy taxes on profession, trade etc provided that the total amount of such taxes payable in respect of any one person should not exceed Rs 250 per month

(10) Provision has been made for the constitution of a Finance Commission to recommend to the President certain measures for the distribution of financial resources between the Union and the States

4 FINANCE COMMISSION

Constitution

Under art 280 of the Constitution, provision has been made for Constitution of Finance Commission within 2 years of the commencement of constitution and thereafter expiration of every fifth year. It consists of a chairman and four other members appointed by the President

Functions

(I A.S. Main, 1989)

It is the duty of the Commission to make recommendations to President as to :

- (i) the distribution between the Union and the States the proceeds of taxes, which are divisible between the Union and the States ;

(ii) the principles, which should govern the grants-in-aid of revenues to the States out of the Consolidated Funds of India ; and

(iii) any other matter referred to the Commission by the President in the interest of sound Finance.

Report

The President shall cause the report of the Finance Commission with an explanatory memorandum as to the action taken thereon, to be laid before each House of Parliament. *(I A.S. Main, 1980)*

EXERCISES

1. What is the distribution of Powers between the Centre and States under the Constitution of India ? Discuss whether the grant of greater autonomy to the States would be in the interest of strengthening the integration and promoting economical development of the courts. *(I.A.S. Main, 1979)*

2. Analyse the causes of controversy in India in recent years in regard to Union State relations. What are the specific areas of discord ? Consider the main issues and offer your comments and suggestions. *(I A.S. Main, 1981)*

3. When can Parliament make a law on a subject given in the State List ? *(I.A.S. Main, 1982)*

4. What were the objects in having three separate legislative lists in the Constitution of India ? Can the Parliament make laws in regard to any item in State List ? If so under what situations ? Does any of the issues arising from the above give rise to Union-State controversies ? *(I.A.S. Main, 1983)*

5. Write a short note on Finance Commission. *(I.A.S. Main, 1980)*

8

Services

1. UNION PUBLIC SERVICE COMMISSION

Constitution

The Union Public Service Commission consists of a chairman and 8 other members appointed by the President and they hold office for a period of 6 years from the date of their appointment

Functions

(I.A.S. 1954)

The following are the main functions of the U.P.S.C. :

(1) To conduct examinations for appointment to the Services of the Union.

(2) If requested by two or more states, to assist those states in framing and operating the scheme of joint recruitment for services for which candidates possessing special qualifications are required

(3) To serve all or any of the needs of a state with the approval of the President if requested by the Governor of a State

4. To advise the Union Government on :

- (i) all matters relating to methods of recruitment to civil services and for civil posts ;
- (ii) the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another ;
- (iii) suitability of candidates for such appointments, promotions or transfers ;
- (iv) all disciplinary matters affecting a person serving under the Government of India, including memorials or petitions relating thereto ;
- (v) any claim for the reimbursement of expenses incurred by a Government servant in defending legal proceedings against him for acts done in the execution of his duties ;
- (vi) any claim for the award of pension for injury sustained by a person while serving under the Govt. of India in a civil capacity ; and

- (vii) on any matter which the President may refer to the commission.

2. ALL INDIA SERVICES

Under Art 312 of the Constitution, if the Rajya Sabha declares by resolution supported by not less than two-thirds of the members present and voting, that it is necessary or expedient to create an All-India Service, common to the Union and the States, Parliament may by law create such a service and regulate the recruitment and conditions of service of person appointed to any such service

The Indian Administration Service and Indian Police Service, which were in existence at the commencement of Constitution, are deemed to be All-India Services created by the Parliament.

The All-India Services Act was passed by Parliament in 1950 and detailed rules and regulations under the Act have since been promulgated. The recruitment to All-India Services, namely, I.A.S., I.F.S., I.P.S., etc is made by the U.P.S.C. on the basis of a competitive examination supplemented by a *viva voce* test. The conditions of service of persons appointed to those services have since been regulated by an act of Parliament.

(I.A.S. Main 1990)

3 SAFEGUARDS FOR SERVICES

Article 310 (1) of the Constitution states that except as otherwise provided in the Constitution, every person who holds a civil post under the Union, hold office during the pleasure of the President. It means that any Government servant may be dismissed at any time and on any ground, subject to the constitutional safeguards given in Article 311. However, according to Article 310 (2), a provision has been made to enable the President to secure the services of persons having special qualifications, who do not belong to the regular services, by entering into a contract. In such cases compensation would be payable for premature termination of services if the contract provides for such payment—

(a) when the post is abolished before the expiration of the contractual period; or

(b) when the person is required to vacate his post before the expiry of the contractual period, for reasons unconnected with any misconduct on his part.

Article 311 of the Constitution, however, provides that no person holding a civil post shall be dismissed or removed from service—

(a) by an authority subordinate to that by which he was appointed;

(b) except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges :

Provided that, where it is proposed after such enquiry to impose upon him any such penalty, such penalty may be imposed on the basis of evidence adduced during such inquiry and it shall not be necessary to give such person any opportunity of making representation on the penalty proposed.

It is not necessary to follow the procedure at (b) above in the following circumstances before passing order imposing a penalty—

- (i) when a penalty is imposed on a Government servant on the ground of conduct, which has led to his conviction on a criminal charge ;
- (ii) where the competent (Disciplinary) authority is satisfied for reasons to be recorded in writing, that it is not reasonably practicable to hold such an inquiry ;
- (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold such inquiry.

If any question arises, whether it is reasonably practical to hold such inquiry, the decision thereon of the authority to dismiss or remove such person or reduce him in rank, as the case may be, shall be final. (I.A.S. Main, 1990)

EXERCISES

1. Examine the role of the bureaucracy as an instrument of social and economic change in India. In this context discuss the relationship between the ministers and the civil servants in the policy-making processes. ((I.A.S. Main, 1986)

2. What are the respective roles of the political leadership and permanent Civil Services in the Government of India ? What steps, if any, in your opinion have been taken to secure better appreciation of the functions of Civil Services and ensure their proper and efficient functions. (I.A.S. Main, 1980)

Miscellaneous

1 SPECIAL PROVISIONS REGARDING SCHEDULED CASTES ETC

Definition There is no definition of the Scheduled Castes and the Scheduled Tribes in the Constitution itself. The President is empowered to draw up the list of Scheduled Castes and Scheduled Tribes in consultation with the Governor of the State. The Parliament alone is competent to alter it.

The authentic list of Scheduled Castes is contained in the Constitution (Scheduled Castes) Order 1950 issued by the President. It has been amended by the Parliament by the Scheduled Castes and Scheduled Tribes (Amendment) Act 1956.

Special Privileges : The special privileges allowed to the Scheduled Castes and Scheduled Tribes in the Constitution are as under :

(1) Reservation of seats in Legislature

Seats are reserved in the Lok Sabha and State Legislatures for Scheduled Tribes on population basis.

(2) Reservation of Services

Article 335 of the Constitution provides that the claims of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in making appointments to Union and State Services and posts.

(3) National Commission for Scheduled Castes and Scheduled Tribes

Under Article 338 of the Constitution, National Commission for Scheduled Castes and Scheduled Tribes has been appointed. His main functions are—

- (i) to investigate all matters relating to safeguards provided for Scheduled Castes and Scheduled Tribes under the Constitution, and
- (ii) to enquire into specific complaints with respect to deprivation of rights and safeguards of Scheduled Castes and Scheduled Tribes.

The President shall cause all such reports to be laid before each House of the Parliament. *(I.A.S. Main, 1987)*

(4) Tribal Commission

Under Article 339 (1), the President has been empowered to appoint a Commission, at the end of 10 years from the commencement of the Constitution, to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.

(5) Executive Directions to States

Under Article 339 (2), the Union Government can give directions to the States to ensure the drawing up and execution of the schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

(6) Grants-in-aid

Article 275 (1) requires the Union Government to give grants-in aid to the States for meeting the cost of schemes for promoting welfare of the Scheduled Tribes or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State.

(7) Minister of Tribal Welfare

Article 164 of the Constitution provides for a Minister in charge of Tribal Welfare in the States of Bihar, Madhya Pradesh and Orissa, who may also be in charge of the welfare of the Scheduled Castes and other backward classes

(8) Directive Principles

Article 146 of the Constitution provides for the promotion, with special care, of the educational and economic interests of the weaker sections of the people and, in particular, of the Scheduled Castes and Scheduled Tribes and protect them from social injustice and all forms of exploitation.

2. UNION TERRITORIES

At present, there are the following 7 Union Territories —

(1) Delhi, (2) The Andaman and Nicobar Islands, (3) Lakshadweep Islands, (4) Dadra and Nagar Haveli, (5) Daman and Diu, (6) Pondicherry and (7) Chandigarh.

Administration of the Union Territories : The administration of the Union Territories under article 239 to 241 the Constitution provides that .

(1) Every Union Territory shall be administered by the President through an Administrator to be appointed by him with such designation as he may specify. The administrator is called the Lt. Governor in Delhi, Pondicherry and Andaman and Nicobar Islands, and Administrator elsewhere. The Governor of the Punjab is the Administrator of Chandigarh, Governor of Goa is the Administrator of Daman and Diu, while Lakshadweep and Dadra and Nagar Haveli have separate Administrators.

(2) The President may appoint the Governor of a State as administrator of an adjoining Union Territory, and where a Governor is so appointed, he shall exercise his functions as such Administrator, independent of his Council of Ministers. Chandigarh and Daman and Diu are the examples in point.

(3) The President may, by law, create for the Union Territory of Pondicherry, —

- (a) a body whether elected or partly elected and partly nominated, to function as a Legislature for the Union territory ; or
- (b) a Council of Ministers, or both, with such constitution, powers and functions, as may be specified in law (A Ministry is functioning in Pondicherry.)

For Delhi, a Metropolitan Council has been created.

(3) The President may make regulations for the peace, progress and good government of the Union Territories of—

- (a) the Andamans and Nicobar Islands,
- (b) the Lakshadweep Islands,
- (c) Dadra and Nagar Haveli

(5) Any regulation so made may repeal or amend any Act made by the President or any existing law, which is for the time being applicable to the Union Territory and when promulgated by the President, shall have the same force and effect, as an Act of the Parliament, which applies to that territory.

(6) The Parliament has exclusive legislative power over the Union territories, including matters in the State lists, except for matters for which legislative Assemblies concerned have been given power to make laws.

(7) Parliament may, by law, constitute a High Court for a Union Territory or declare any court in such territory to be a High Court for all or any of the purposes of the Constitution.

(8) The Parliament has full powers to extend or exclude the jurisdiction of a High Court to or from such Union Territory.

3. ATTORNEY-GENERAL OF INDIA

Appointment

The Attorney General of India is appointed by the President under Article 76 of the Constitution. A person qualified to be a judge of the Supreme Court is appointed to such a post. He is the highest legal adviser to the Government of India and is consulted in all important cases. He also appears in the Supreme Court on behalf of the Govt. of India to conduct important cases.

(I A S Main, 1981)

Functions : The main functions the Attorney-General are .

- (i) to advise the Union Government in legal matters, and
- (ii) to perform such other legal duties, which may be assigned to him by President
- (iii) to discharge such other functions conferred on him by or under the Constitution or any other law for the time being in force

Terms of Office : He holds office during the pleasure of the President and receives such remuneration as the President may determine

Rights : In pursuance of his duties, Attorney-General has the right of audience in all courts in the territory of India. He has also a right to speak or take part in proceedings in either House of Parliament or in the joint session of two Houses or any Committee of the Parliament. He cannot, however, vote

4. COMPTROLLER AND AUDITOR-GENERAL

(I A S Main, 1989)

Functions: The main functions of the Comptroller and Auditor General of India are —

- (1) To bring to account the receipts and expenditure of the Union Government (except Railways, Defence Services and other Ministries the accounts of which are maintained by the departmental authorities),
- (2) To audit all expenditure from the revenues of the Union and States,
- (3) To audit all trading, manufacturing and Profit and Loss—Accounts of stores and stocks, where the President may have required him to conduct such audit

Independence of Audit

(I.A.S. Main, 1989)

The independence of the Comptroller and Auditor-General has been sought to be ensured by the following provisions of the Constitution :

(1) Though appointed by the President, the Comptroller and Auditor-General of India can be removed from his office only after an address of each House of Parliament, supported by a majority of total membership of that House and not less than 2/3 of the members of the House present and voting, has been presented to the President on the grounds of (i) proved misbehaviour, (ii) incapacity

(2) The salary and the conditions of service of the Comptroller and Auditor-General of India cannot be varied to his disadvantage after his appointment

(3) He is not eligible for further appointment after his retirement, so that he may have no inducement to please the Executive of the Union or of any State.

(4) The salaries, etc., of the Comptroller and Auditor-General and his staff are charged upon the Consolidated Fund of India and are thus non-votable

(5) The reports of the Comptroller and Auditor-General relating to Accounts are submitted to the President who causes them to be laid before the Parliament

5. ELECTION COMMISSION

Composition . It is a statutory body appointed under article 324 of the Constitution. It consists of a Chief Election Commission and such other Election Commissioners as the President may fix from time to time. The Chief Election Commissioner is the chairman of the commission

Functions : The main functions of the Election Commission are -

(1) to superintend, direct and control the preparation of electoral rolls for the elections ,

(2) to conduct all elections and bye-elections to the Parliament and State Legislatures and elections to the offices of President and Vice-President

(3) to advise the President/Governors regarding the disqualification of Members of Parliament or Members of State Legislatures ; and

(4) to examine the return of expenses filed by the candidates nominated to various elections, disqualify the defaulting candidates and their election agents and consider the representation of such of them as apply for the removal of their disqualification.

(I.A.S. Main, 1984)

EXERCISES

1. Why has there been reservation of seats for Scheduled Castes and Scheduled Tribes in the legislatures and in public services? Has the purpose been achieved? Indicate recent developments.

(I.A.S. Main, 1981)

2. Discuss the composition and functions of the Election Commission.

(I.A.S. Main, 1984; 79)

3. Discuss the duties and powers of the Comptroller and Auditor-General of India in regard to Audit and show how the Constitution provides for his independence from Executive control.

(I.A.S. Main, 1989)

10

Summary of Provisions

Part I

THE UNION AND ITS TERRITORY

Article 1 : India, that is Bharat, shall be a Union of States. The first Schedule of the Constitution is linked to this article.

Article 2 : Admission or establishment of new States.

Article 3 : The Parliament is empowered to alter the area, boundaries or the name of any state. For this purpose the Legislatures of the concerned State will, however, be consulted.

Article 4 : A law made by the Parliament under Articles 2 and 3 regarding new States or existing States may amend the provisions of I and IV schedules and may contain other consequential changes but such a law will not be deemed to be an amendment of the Constitution for the purpose of Art. 368.

Part II

CITIZENSHIP

Article 5 : Citizenship at the commencement of the Constitution.

Article 6 : Deemed citizenship of persons who had migrated from Pakistan and had been registered before 1948.

Article 7 : Rights of citizenship of certain migrants to Pakistan.

Article 8 : Rights of citizenship of certain persons of Indian origin residing abroad at the time of independence on registration.

Article 9 : Indian citizenship of a person will cease if he acquires the citizenship of a foreign State voluntarily.

Article 10 : Unimportant.

Article 11 : Parliament is empowered to regulate the right of citizenship by law. At present the Citizenship Act of 1955 is in force. This Act provides for citizenship by birth, descent, registration, naturalisation and by incorporation of territory.

Note : There is a single citizenship in India, as opposed to double citizenship, prevailing in some Federal States like the U.S.A.

The advantages conferred on the citizens by the Constitution : (a) Only citizens are entitled to certain Fundamental Rights, viz , Article 15, 16, 19, 29. (b) Only citizens are eligible for certain high offices such as President, Governor, Judge of the Supreme Court and the High Court, etc (c) only citizens can exercise voting rights in the elections to Parliament and State legislatures.

Part III

FUNDAMENTAL RIGHTS

Note : The term '*Fundamental Rights*' has not been defined in the Constitution. Fundamental Rights are essentially those rights which a human personality requires for full development in a civilized society and are generally available to human beings in a democracy

Article 12 : The term '*State*' in this Part includes the Government of India, Parliament, the State Governments, State Legislatures and all local and other authorities

Article 13 : The State is prohibited from making any law taking away or abridging the rights conferred by Part III. Any law made in contravention of this part will be void. However, this restriction will not apply to a Constitutional amendments —

RIGHT TO EQUALITY

Article 14 : Equality before law and equal protection of laws to all persons within the territory of India

Article 15 : The State is prohibited from discriminating against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. On the same grounds no citizen will be discriminated against in any public restaurant or other public places. However, special protection to women and children may be extended by the State. Similarly, the State may make special provisions for the advancement of socially and educationally backward classes of citizens and for the Scheduled Castes and Scheduled Tribes

Article 16 : Equality of opportunity in matters of public employment : The State shall not discriminate on grounds only of religion, race, caste, sex, descent, place of birth or residence. However, the Parliament may make law prescribing residence within a State as a qualification for certain categories of posts in that State Government or local authority within that State. The State may also make reservation of appointments or posts in favour of any backward class of citizens who are not adequately represented in the services.

Article 17 : Abolition of Untouchability : Untouchability is abolished and its practice made punishable according to law (The Protection of Civil Rights Act, 1955)

Article 18 : The State is prohibited from conferring any title other than a military or academic distinction. A citizen of India is prohibited from accepting any foreign title. No Government employee can accept a foreign title or presents from a foreign State

SIX FREEDOMS

Article 19 : All Indian citizens have the following Six Freedoms :

- (a) Freedom of speech and expression subject to reasonable restrictions in the interest of sovereignty and integrity of India, security of State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation or incitement to an offence.
- (b) Freedom to assemble peaceably and without arms, subject to reasonable restrictions in the interest of sovereignty and integrity of India and public order.
- (c) Freedom of association, i.e., to form associations or unions, subject to reasonable restrictions in the interest of sovereignty and integrity of India, public order and morality
- (d) Freedom of movement throughout the territory of India, subject to reasonable restrictions in the interest of the general public or of any Scheduled Tribe.
- (e) Freedom of residence and settlement in any part of India, subject to reasonable restrictions in the interest of the general public or of any Schedule Tribe
- (f) Freedom of occupation, i.e., the freedom to practise any profession, occupation, trade or business subject to reasonable restrictions in the interest of general public and for the enforcement of technical qualifications and state monopoly of trade or business.

Note : The Six personal freedoms contained in Art. 19 should not be confused with 'Six Fundamental Rights', a term referring to the categorization of all Fundamental Rights

Article 20 : Certain protections to all persons in respect of conviction and prosecution for offences.

Article 21 : Protection of life and personal liberty : No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 22 : Rights available to all persons in the matter of arrest are to be produced before the nearest Magistrate within 24 hours, to be informed of the grounds of arrest and to be defended by a lawyer of his choice. The same Article provides for preventive detention of any person. In the case of preventive detention, the protections available are as follows. For detention beyond three months, an Advisory Board should authorize such detention; the detenu may be informed of the grounds of detention and may be given an opportunity to make a representation; the maximum period of detention for any class of cases may be prescribed by Parliament by law.

Note : The basic difference between arrest and preventive detention is this: arrest is for alleged commission of an offence punishable under some law whereas detention is ostensibly to prevent a person from committing some offence *viz*, no offence is alleged against a detenu (a detained person). Both the Parliament and the State Legislatures are empowered to enact P.D. laws. The first such law in free India was Preventive Detention Act, 1950 which was in operation till 1962. The important P.D. Laws today are the National Security Act, 1980 (NSA), Conservation of Foreign Exchange and Prevention of Smuggling Activities Act 1974 (COFEPOSA), Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA); Prevention of Blackmarketing & Maintenance of Supplies of Essential Commodities Act, 1980 etc.

RIGHT AGAINST EXPLOITATION

Article 23 : Prohibition of traffic in human beings (prostitution etc.) and forced labour. Compulsory military service may be prescribed by the state but without discrimination on the ground of religion, race, caste or class.

Article 24 : Prohibition of employment of children below 14 years in any factory, mine, hazardous employment.

RIGHT TO FREEDOM OF RELIGION

Article 25 : Freedom of conscience and the right to profess, practise and propagate any religion are guaranteed to all persons, subject to public order, morality and health. However, the State may make laws regulating the economic, political and other secular activities associated with religious practice. Besides, the State may make laws for social welfare and reform, particularly to throw open Hindu religious institutions of a public character to all classes and sections of the Hindus. The reference to Hindus in this Article shall be construed as including a reference to persons professing Sikh, Jain or Buddhist religions and the reference Hindu religious institutions shall be construed accordingly. The wearing and carrying of Kirpans shall be deemed to be included in the profession of the Sikh religion.

Article 26 : Every religious denomination shall have the right to establish and maintain religious and charitable institutions and to manage its own affairs in matters of religion subject to public order, morality, health and laws relating to property

Article 27 : No person shall be compelled to pay taxes, the proceeds of which will be specifically appropriated in payment of expenses for the promotion of any particular religion

Article 28 : No religious instruction will be imparted in a State educational institutions. In other educational institutions, receiving State aid attending religious instruction or worship will not be compulsory.

CULTURAL AND EDUCATIONAL RIGHTS

Article 29 : Protection of interests of minorities : Any section of citizens may take steps to conserve their distinct language, script or culture. There shall be no discrimination on grounds of religion, race, caste or language in the matter of admission to any educational institution receiving State aid.

Article 30 : All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. When the State compulsorily acquires the property of a minority educational institution, due amount of compensation shall be paid. The State shall not discriminate against a minority educational institution in the matter of aid.

Note : Right to property was a Fundamental right until it was deleted from Part III by the 44th Amendment. Now it is a statutory right under Art 300A of the Constitution.

SAVING OF CERTAIN LAWS

Article 31A : Notwithstanding anything contained in Article 13, no law providing for acquisition of property by the State, or abolition of the managing agency system, or abolition of Zamindari system, etc., shall be void.

Article 31B : The Acts and Regulations listed in the Ninth Schedule of the Constitution shall not be deemed void on the ground of any inconsistency with any of the Fundamental Rights in this Part

Article 31C : A law purporting to implement any Directive Principle in Part IV shall not be deemed to be void even if it violates the rights conferred by Article 14 or 19. No such law shall be called in question in any court if it contains declaration that it is giving effect to such policy.

Note : In the Kesavananda Bharathi Case (1973), the Supreme Court held that the italicised part of this Article was invalid. In the

Minerva Mills case of 1980, the Supreme Court held that the protection given to laws will apply only to Directive Principle contained in clauses 39(b) and 39(c) and will not extend to all the Directive Principles.

RIGHT TO CONSTITUTIONAL REMEDIES

Article 32 : A person any of whose Fundamental Rights listed in this Part is violated may directly move the Supreme Court for the enforcement of his rights. The Supreme Court will have the power to issue any order or writ including the writ of Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. The rights guaranteed by this Article shall not be suspended except as otherwise provided in the Constitution (i.e., during Emergency under Article 352).

Article 33 : The Parliament may modify the application of Fundamental Rights to the members of armed forces and other forces (e.g.) Police and to persons employed by the State for intelligence and telecommunication system.

Article 34 : The Parliament may by law indemnify officials who violate the Fundamental Rights in this Part while martial law is in force in any area.

Article 35 : Parliament alone can legislate on certain matters to give effect to some of the provisions of this Part.

Part IV

DIRECTIVE PRINCIPLES OF STATE POLICY

Articles 36-37 : The Principles in this Part shall not be justiciable i.e., enforceable in any court, however, they are fundamental in the governance of the country. It shall be the duty of the State to apply these principles in making laws.

Article 38 : The State shall strive to promote the welfare of the people and to secure a just social order. In particular, it will try to minimise inequalities in income, status, facilities and opportunities.

Article 39 : The State shall endeavour to secure

- (a) right to an adequate means of livelihood for all citizens,
- (b) the ownership and control of the material resources of the community should be so distributed as to subserve the common good,
- (c) the operation of the economic system should not result in the concentration of wealth and means of production to the common detriment,

(d) equal pay for equal work for both men and women;

(e) steps to protect workers and children.

Article 39A : Equal justice and free legal aid

Article 40 : The State shall take steps to organise village Panchayats and to endow them with such powers as may be necessary to enable them to function as units of self-government.

Article 41 The state shall try to secure for the citizens the : Right to work , right to education , right to Public assistance in case of unemployment, old age, sickness and disablement

Article 42 Provision for just and humane conditions of work and maternity relief.

Article 43 . Living wage for workers , promotion of cottage industries

Article 43A . Participation of workers in management of industries

Article 44 : Uniform civil code for all citizens.

Article 45 : Free and compulsory education for children up to 14 years was to be achieved within a period of 10 years from the commencement of the Constitution.

Article 46 : Promotion of educational and economic interests of Scheduled Castes and Scheduled Tribes and other weaker sections; Protection of these persons from social injustice and exploitation

Article 47 : Duty of the State to raise the level of nutrition and to improve the standard of living and public health of the people; enforcement of Prohibition.

Article 48 Organisation of agriculture and animal husbandry on modern and scientific lines ; prohibition of cow slaughter.

Article 48A : Protection and improvement of environment and safeguarding of forests and wild life.

Article 49 : Protection of monuments and places of historic or artistic importance.

Article 50 Separation of the judiciary from the executive in the public services

Article 51 : The State shall endeavour to promote international peace and security : to maintain just and honourable relations between the nations ; to foster respect for international law and treaty obligations , and to encourage settlement of international disputes by arbitration.

Part IV-A

FUNDAMENTAL DUTIES

Article 51A : The following duties of the citizens of India were included in the Constitution under the 42nd Amendment Act passed in 1976 :

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem ;
- (b) to follow the ideals of the national struggle for freedom ;
- (c) to uphold the sovereignty, unity and integrity of India ,
- (d) to defend the country when necessary ;
- (e) to promote communal harmony and to renounce practices derogatory to the dignity of women ,
- (f) to preserve our rich cultural heritage ;
- (g) to protect natural environment and wild life ;
- (h) to develop scientific temper, humanism and spirit of inquiry and reform
- (i) to safeguard public property and abjure violence ,
- (j) to strive towards excellence

Part V

THE UNION

THE EXECUTIVE

Articles 52-53 : There shall be a *President* of India. The executive power of the union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. The supreme command of the Defence Forces shall be vested in the President and the exercise thereof shall be regulated by law.

Articles 54-55 The President shall be elected by an electoral college consisting of the elected members of both House of Parliament and the elected members of the Legislative Assemblies of the States, in accordance with the system of proportional representation by means of the single transferable vote by secret ballot. In the allocation of multiple votes to each voter of the electoral college, the following two parities (balance) will be maintained. Each M.L.A. of State should approximately get votes in proportion to the population which he represents. All the M.L.As put together should have the same number of votes as all the M.P.s put together.

Article 56 : The President's term of office is five years but he will hold the post until his successor enters upon his office. The

President may resign, by writing under his hand, a letter addressed to the Vice-President. The Vice-President shall communicate the resignation to the Speaker of the House of the People.

Article 57 : A President is eligible for re-election. However there is a convention that the President shall not hold office for more than two terms in quick succession

Article 58 : Qualifications for election as President : Citizenship of India ; above 35 years of age ; qualified for election as a member of the House of the People ; and should not hold any office of profit

Article 59 : Conditions of President's Office : The President should not be a member of either House of the Parliament or of any State Legislature ; should not hold any other office of profit. The President shall get monthly emoluments as may be prescribed by Parliament by law. At present the salary of the President is Rs 20,000 per month.

Article 60 : The President should subscribe on oath or solemn affirmation in the presence of the Chief Justice of India or the senior-most Judge of the Supreme Court, to preserve, protect and defend the Constitution and the law.

Article 61 : Procedure for impeachment of the President : When the President is to be impeached for violation of the Constitution, either House of the Parliament may initiate proceedings by framing the charge against the President in the form of a resolution after 14 days' notice, signed by not less than one-fourth of the total number of members in that House. The resolution should be passed by a majority of not less than two-thirds of the total membership of the House. Then the resolution will be sent to the other House which will investigate the charge and then may pass the resolution saying that the charge has been proved. The second resolution will have the effect of removing the President from office

Article 62 : Election to fill the vacancy in the office of the President should be held before the expiration of the normal term of five years or not later than six months from the date of occurrence of vacancy caused by death, resignation or removal of the President

Articles 63-65 : The Vice-President of India shall be the ex-officio chairman of the Council of States. In the absence of the President, the Vice-President shall act as the President and, then, he shall perform all the functions and have all the powers of the President. During such time, he will not act as the Chairman of the Rajya Sabha

Article 66 : Election of the Vice-President : The Vice-President shall be elected by an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote cast by secret ballot. The Vice-President should not be a member of any

legislature. Qualifications are : citizenship ; above 35 years ; qualified for election as a member of the Council of States.

Articles 67-69 : Other provisions relating to the Vice-President : Term of office 5 years ; may be removed by a resolution of the Council of States passed by a majority of all the then present members of the Council and agreed to by the House of the People , the Vice-President should subscribe an oath before the President or some person appointed by him

Article 70 : The Parliament may make provision for the discharge of the functions of the President in any contingency not envisaged in the Constitution (In the absence of the President and the Vice-President, the Chief Justice of India will act as the President.)

Article 71 : Disputes regarding the elections of a President or Vice-President shall be decided by the Supreme Court only.

Article 72 : The president has power to grant pardons, reprieves or remission of sentence of any convict in certain cases

Article 73 : The executive power of the Union shall extend to matters with respect to which the Parliament has power to enact laws

COUNCIL OF MINISTER

Article 74 : Council of Ministers : There shall be a Council of Ministers with the Prime Minister at the head, to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice The President may require the Council of Ministers to reconsider any advice tendered by it , but after such reconsideration the President has to act according to the advice

The question whether any advice was tendered by the Ministers to the President shall not be inquired into in any Court

Article 75 : The Prime Minister shall be appointed by the President , other Ministers shall be appointed by the President on the advice of the Prime Minister. The Ministers shall hold office during the pleasure of the President. The Council of Ministers shall be collectively responsible to the House of the People A Minister who is not already an M P , should become a member of either House of Parliament within a period of 6 months. The salaries and allowances of the Ministers shall be determined by the Parliament by law

Article 76 : Attorney-General of India : Appointed by the President Qualification are the same as for a Judge of the Supreme Court The duties of the Attorney-General are to advise the Union Government on legal matters, to perform such other legal functions as are entrusted to him by the President or prescribed by the Constitution and the laws. He shall hold office during the pleasure of the

President, and shall receive such remuneration as may be fixed by the President. He will have the right of audience in all courts in India.

Article 77 : All the executive orders of the Government of India will be in the name of the President

Article 78 : Duties of the Prime Minister

- (a) To communicate to the President all decisions of the Council of Ministers relating to the Union administration or legislation ;
- (b) To furnish such information as the President may call for, relating to the Union administration or legislation ;
- (c) If the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a single Minister.

PARLIAMENT

Article 79 The Parliament consists of the President, the Council of States and the House of the People

Article 80 The Rajya Sabha shall consist of not more than 238 representatives of the States and the Union territories and 12 nominated members who will be nominated by the President for their special knowledge of practical experience in literature, science, art and social services. The representatives from the States will be elected by the elected members of the Legislative Assemblies in accordance with the system of proportional representation by means of the single transferable vote (The present number of seats is $233+12=245$)

Article 81 : The Lok Sabha shall consist of not more than 530 members chosen by direct election from territorial constituencies in the States, not more than 20 members to represent the Union territories and 2 nominated Anglo-Indian representatives. The allocation of seats in the Lok Sabha to each State will be roughly in proportion to its population. Until the year 2000 A D there will be no change in the number of seats allocated to different states (At the time of reorganisation of Goa, Diu and Daman in 1987, the maximum number of elected members of states was increased from 425 to 430. The present strength of the Lok Sabha is $427+16+2=545$)

Article 82 : Delimitation of territorial constituencies for the Lok Sabha election will be done by such authority as may be prescribed by the Parliament by law. (At present the Election Commission is the prescribed authority)

Article 83 : The Council of States shall not be subject to dissolution. One-third of the members will retire every second year so that the tenure of a member will normally be 6 years. The House of the People will have a normal duration of 5 years from the date of its first meeting. The expiration of the said 5-year period shall operate as a dissolution of the House. However, the Lok Sabha may be dissolved, at the discretion of the President, ¹ i.e., the Council of Ministers, before the expiry of the 5-year period. Only when emergency is in force, the duration of Lok Sabha can be extended by a period not exceeding one year at a time.

Article 84 : Qualifications for membership of Parliament :

- (a) Citizenship ;
- (b) Subscribing an oath or affirmation before some person authorised in that behalf by the Election Commission ,
- (c) 30 years of age for the Rajya Sabha, 25 years for Lok Sabha ,
- (d) Such other qualifications as may be prescribed by the Parliament by law.

Article 85 . The President has the right to summon and prorogue either House of the Parliament and to dissolve the House of the People. The Houses of Parliament should meet so frequently as to ensure that 6 months do not elapse between its last sitting in one session and the first sitting in the next session.

Article 86 . The President may address either House of the Parliament or both Houses assembled together. He may also send messages to either House.

Article 87 . At the commencement of the first session after each General Election to the Lok Sabha and at the commencement of the first session of each year, the President shall address both Houses of Parliament assembled together.

Article 88 . A Union Minister and Attorney-General of India will have the right to take part in the proceedings of either House but will not be entitled to vote unless he is a member of the House.

OFFICERS OF PARLIAMENT

Article 89 . The Vice-President of India shall be *ex-officio* Chairman of the Rajya Sabha. A Deputy Chairman of the Council of States will be chosen by the members from among themselves.

Article 90 : The Deputy Chairman may resign his office by writing to the Chairman. He may be removed from his office by resolution of the Council, passed by a majority of all the then members of the Council, after 14 days' notice.

Article 91 : Power of the Deputy Chairman or some other

duly-appointed person to perform the duties of the office of the Chairman

Article 92 : The Chairman or the Deputy Chairman not to preside while a resolution for his removal from office is under consideration.

Article 93 : The Lok Sabha will elect the Speaker and the Deputy Speaker from among the members themselves.

Article 94 . The Speaker or Deputy Speaker may resign by writing to each other. Either of them may be removed from office by a resolution passed by a majority of all the then members of the Lok Sabha after 14 days' notice. However, the Speaker shall not vacate his office whenever the Lok Sabha is dissolved. He will continue to hold the office till the first meeting of next Lok Sabha after the dissolution

Article 95 : Power of the Deputy Speaker or some other person duly appointed to perform duties of the Speaker.

Article 96 : The Speaker or the Deputy Speaker not to preside while a resolution for his removal is under consideration.

Article 97 : The Chairman, the Deputy Chairman, the Speaker and the Deputy Speaker shall be paid salaries and allowances as may be fixed by the Parliament by law

Article 98 : Each House of Parliament will have a Secretariat.

CONDUCT OF BUSINESS

Article 99 Before taking his seat, a member of either House of the Parliament should subscribe an oath or affirmation before the President or some person authorised in that behalf. (According to the present practice, the Senior-most member of the Lok Sabha or the Legislative Assembly, as the case may be, takes the oath as the *pro-tem* Speaker and thereafter administers the oath to all other elected members. Thereafter the regular Speaker and Deputy Speaker are elected.)

Article 100 : All questions in a regular sitting of either House or in a joint sitting of the Houses will be determined by a majority of votes of the members present and voting. The Presiding Officer of the House shall not vote in the first instance but may cast his vote in the case of an equality of votes. The Quorum for a meeting of either House will be one-tenth (10%) of the membership of the House until Parliament by law provides otherwise

Article 101 , Vacation of seats : No person shall be a member of both Houses of Parliament or a member of Parliament and of a State Legislature. If a member of either House of Parliament incurs any disqualification or resigns his seat by writing under his hand

addressed to the Chairman or the Speaker, and his resignation is accepted after verification, his seat will become vacant. If a member absents himself from the Parliament for a period of 60 days without permission of the House, the latter may declare his seat vacant.

Article 102 : Disqualifications for membership:

- (a) holding an office of Profit,
- (b) Unsound mind, as declared by a Court,
- (c) Undischarged insolvent;
- (d) acquiring voluntarily the citizenship of a foreign state or acknowledgement of allegiance to a foreign state;
- (e) any other disqualification under law

Article 103 . All questions of disqualification will be decided by the President after obtaining the opinion of the Election Commission. *(The President shall act according to the opinion of the Election Commission)*

Article 104 : A person sitting or voting in a House of the Parliament when not qualified or when disqualified, will be imposed a penalty of Rs 500/- a day.

Article 105 : Powers, privileges and immunities of the Parliament, its Committees and Members There shall be freedom of speech in Parliament subject to procedural regulations and other provisions of this Constitution. No member of Parliament is liable to any proceedings in a court for anything said or any vote given by him in Parliament on any Committee thereof. No person shall be liable in respect of the publication, by or under the authority of either House, of the proceedings of that House. In other respects, the powers, privileges and immunities of either House, its members and of the Committees shall be as may be defined by the Parliament by law from time to time and until so defined, shall be the same as available to them at the time of the enactment of the 44th Amendment of 1978. (So far, no House of Parliament or of any State Legislature has defined all the powers, privileges and immunities of its members).

Article 106 : Salaries and allowances of the members of Parliament may be fixed by law.

LEGISLATIVE PROCEDURE

Article 107 : A bill other than a Money Bill or Financial Bill may be introduced in either House of Parliament. A Bill has to be passed by both the Houses. A Bill pending in Parliament will not lapse by reason of the prorogation of the Houses.

Article 108 : Joint Sitting : After a Bill is passed in one House, it will be transmitted to the other House. The second House may pass the Bill or reject the Bill or may suggest amendments or may not take any action for a period of six months. In any of these cases, if there is final disagreement between the Houses, the President may summon the Houses to meet in a joint sitting for the purpose of voting on the Bill. This procedure will not apply to a Money Bill. The joint sitting will finally vote on the bill and will decide the matter. If the Bill is passed in the joint sitting, it will be deemed to have been passed in both the Houses.

Article 109 : Special procedure in respect of Money Bills :
 (a) A Money Bill shall not be introduced in the Council of States. After a Money Bill is passed in the Lok Sabha it shall be transmitted to the Rajya Sabha for its recommendations. The Rajya Sabha may make its recommendations within a period of 14 days. The Lok Sabha may either accept or reject the recommendations of the Rajya Sabha. In either case the Bill shall be deemed to have been passed by both the Houses.

Article 110 : Definition of Money Bill : A bill which contains provisions dealing with only one or more of the following matters, i.e. imposition, abolition or alteration of a tax; public borrowing by the Government of India, custody, use or maintenance of the Consolidated Fund and the Contingency Fund of India, declaring an expenditure as charged expenditure, audit of accounts of the Union and the States. It is clarified that imposition of fines, provision of licence fees or levy of local taxes will not make a bill Money Bill. The question whether a Bill is a Money Bill or not, shall be decided by the Speaker whose decision will be final. The Speaker has to endorse each Money Bill before he transmits it to the Council of States.

Article 111 : When a Bill has been passed by both Houses of Parliament, it shall be presented to the President who may assent to the Bill; withhold assent or send the Bill back to the Houses with his message. However, he cannot send a Money Bill back to the Houses after the Houses have reconsidered and passed the Bill again, the President shall not withhold his assent therefrom.

PROCEDURE IN FINANCIAL MATTERS

Article 112 : Annual Financial Statement (Budget) : For each financial year the President shall cause to be laid before both Houses of Parliament the 'annual financial statement' showing the estimates of expenditure and of revenue. The following items of expenditure shall be charged on the Consolidated Fund of India. The salaries and allowances of the President, Chairman, Deputy Chairman, Speaker, Deputy Speaker, Judges of the Supreme Court and Comptroller and Auditor-General of India, debt repayment liability

of the Government of India ; Court decrees; and any other expenditure declared by the Constitution or by law to be a charged expenditure.

Article 113 · The Parliament may discuss but not vote on the charged expenditure. The Lok Sabha shall have the power to approve or disapprove of any other expenditure. No demand for a grant shall be made except on the recommendation of the President.

Article 114 After the Lok Sabha has sanctioned the grants under Article 113, a Bill shall be introduced in the Parliament to provide for the appropriation out of the Consolidated Fund. No amendment shall be proposed to this Appropriation Bill.

Article 115 **Supplementary, additional or excess grants :** The Parliament may sanction supplementary grant when the allocation made for a particular service for the current financial year is found to be insufficient. Additional grant may be sanctioned by the Parliament when a new services not contemplated in the Budget requires expenditure. If money has been spent on any service in excess of the amount granted for that service for that year, the Lok Sabha may sanction excess grant to regularise the excess expenditure.

Article 116 · **Vote on account, vote of credit and exceptional grant** · Vote on account may be sanctioned by the Lok Sabha when the Government requires any grant in advance before the completion of the procedure for passing the regular Budget. Vote of credit is given to meet unexpected demand or for a service of indefinite character whose details cannot be stated. The exceptional grant is made for a service which forms no part of the service during the current financial year.

Article 117 A money Bill shall not be introduced except on the recommendation of the President and can be introduced only in the Lok Sabha. However a recommendation of the President shall not be required for moving of an amendment proposing reduction or abolition of any tax.

Article 118 : Each House of Parliament will frame its own rules of procedure. At a joint sitting, the Speaker shall preside.

Article 119 : Regulation of the procedure in Parliament with regard to financial business.

Article 120 : The language to be used in Parliament shall be Hindi or English. However, the Presiding Officer may permit a member to speak in his mother tongue.

Article 121 : No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except when proceedings for his removal are taken up.

Article 122 : The Courts shall not look into the validity of any proceedings in Parliament. No officer or member of Parliament is answerable to any court for exercise of the powers vested in him under this Constitution.

CHAPTER III

LEGISLATIVE POWERS OF THE PRESIDENT

Article 123 When both the Houses of Parliament are not in session, if the President is satisfied of the need for immediate action, he may promulgate an ordinance. An ordinance shall have the same force as an act of Parliament. It should be laid before the Parliament and will cease to operate at the expiration of six weeks from the reassembly of the Parliament. If, during this period, both Houses of Parliament pass resolutions disapproving of it, it will cease to operate earlier.

CHAPTER IV

THE UNION JUDICIARY

Article 124 : The Supreme Court of India shall consist of the Chief Justice and not more than 25 other Judges (In the Article, the original number of 7 is still mentioned). The number of Supreme Court Judges is prescribed by law made by Parliament. The President shall appoint each Judge by warrant under his hand and seal after consultation with such Judges of the Supreme Court and of High Courts as he considers necessary. For appointing the other judges, the Chief Justice of India should be consulted. The retirement age for a Judge is 65 years. A judge may resign by writing to the President. The qualifications prescribed are citizenship, a High Court Judge for 5 years in succession or an advocate of a High Court for 10 years in succession, or a distinguished jurist in the opinion of the President. A Supreme Court Judge may be removed from his office by an order of the President which may be passed after an address by each House of Parliament to the President for his removal on the ground of proved misbehaviour or incapacity. Such an address should be supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the House present and voting. A retired judge of the Supreme Court is prohibited from pleading in any Court or before any authority in India.

Article 125 : The salaries, allowances and privileges of a Judge should not be varied to his disadvantage after his appointment.

Article 126 : If the office of the Chief Justice is vacant, a Judge of the Supreme Court may be appointed temporarily as an acting Chief Justice of India.

Article 127 : Appointment of *ad hoc* Judges : If there is want of quorum in the Supreme Court, the Chief Justice of India may, with the previous consent of the President, appoint a regular Judge of a High Court as an *ad hoc* Judge of the Supreme Court subject to certain conditions.

Article 128 : With the previous consent of the President, the Chief Justice of India may request a retired Judge to sit in the Supreme Court with his consent.

Article 129: The Supreme Court is a court of record and has the power to punish for contempt of itself

Article 130 : The seat of the Supreme Court will be Delhi. But it may also sit in other places with the approval of the President.

Article 131 · Original jurisdiction : The Supreme Court has original jurisdiction in legal disputes between Government of India and one or more States , or between the Government of India and any State or States on one side or one or more States on the other , or between two or more States.

Article 132 : Appellate jurisdiction in certain cases · If the High Court grants a certificate that a case involves a substantial question of law as to the interpretation of the Constitution, the appeal will lie to the Supreme Court.

Article 133 Appellate jurisdiction in civil matters : If the High Court certifies that a civil case involves a substantial question of law of general importance to be decided by the Supreme Court, the appeal will lie with the Supreme Court.

Article 134 · Appellate jurisdiction in criminal matters · An appeal against the judgment of a High Court in a criminal proceeding will lie with the Supreme Court in the case of death sentence under certain conditions and in some other cases

Article 134A : A High Court may grant a certificate if it considers that the case is fit for appeal to the Supreme Court

Article 135 : Unimportant.

Article 136 Special leave to appeal : The Supreme Court has the discretion to grant special leave to appeal from any judgment, decree or order passed by any court or tribunal in the territory of India except those relating to armed forces

Article 137 : Subject to law made by the Parliament, the Supreme Court shall have power to review any of its own judgements.

Article 138 : The Parliament may by law enhance the jurisdiction of the Supreme Court

Article 139 . The Parliament may confer on the Supreme Court

the power to issue orders and writs, including *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari* for any purpose other than those mentioned in Article 32.

Article 139A : When cases involving substantially the same question of law of public importance are pending before the Supreme Court and a High Court or before two or more High Courts, the Supreme Court may withdraw the cases pending before such other Courts and dispose of them. The Supreme Court may, in order to do justice, transfer a case of proceedings from one High Court to another.

Article 140 : Parliament may by law confer ancillary powers upon the Supreme Court

Article 141 The law declared by the Supreme Court shall be binding on all courts of India

Article 142 : Enforcement of decrees and orders of the Supreme Court.

Article 143 · Power of the President to consult the Supreme Court : If a question of law or fact of public importance arises, the President may refer the matter for the opinion of the Supreme Court. The Court, after a hearing, may report to the President its opinion. If any matter of legal dispute arises between Governments of India and a state government etc, in which the jurisdiction of the Supreme Court is barred by any treaty or agreement, the President may refer the matter for the opinion of the Supreme Court which shall report its opinion

Article 144 · All civil and judicial authorities in India shall act in aid of the Supreme Court.

Article 145 : The Supreme Court shall have the power to make rules for its working subject to the laws made by the Parliament in this regard. The minimum number of Judges to decide an issue involving the interpretation of the Constitution or any presidential reference shall be five. All cases will be decided by a majority of the Judges hearing the cases.

Article 146 : The Supreme Court shall appoint its own officers, the administrative expenses of the Supreme Court shall be charged expenditure.

Article 147 : Unimportant.

CHAPTER V

COMPTROLLER AND AUDITOR-GENERAL OF INDIA

Article 148. The Comptroller and Auditor-General is appointed by the President and can be removed only in the manner prescribed

for a Supreme Court Judge. His salary and other conditions of service may be prescribed by Parliament by law. He shall be ineligible for further office under any Government.

Article 149 : The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as are assigned to him by law.

Article 150 : The Accounts of the Union and of the States shall be kept in forms prescribed by the President on the advice of Comptroller and Auditor-General.

Article 151 : The reports of Comptroller and Auditor-General shall be submitted to the President or the Governor, as the case may be, and will be laid before the Parliament and the respective State Legislatures.

Part VI

THE STATES

Article 152 In this part, unless the context otherwise requires, the expression 'State' does not include Jammu and Kashmir. The extent of application of this part to J & K has been decided in the Presidential order 'The Constitution (Application to Jammu and Kashmir) Order, 1954'

CHAPTER II

THE EXECUTIVE

Article 153 For each State there shall be a Governor. The same person may be appointed as Governor for two or more States.

Article 154 The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through his officers.

Article 155 : The Governor shall be appointed by the President under his hand and seal.

Article 156 : The Governor shall hold office during the pleasure of the President. The normal tenure is 5 years but he may hold office till his successor enters upon his office. The Governor may resign by writing to the President.

Article 157 : Qualifications for the Governor : (i) Citizen of India and (ii) should have completed the age of 35 years.

Article 158 : Conditions of Governor's Office : A Governor

shall not be a member of Parliament or of any State Legislature. He should not hold any other office of profit.

Article 159 : A Governor should subscribe an oath or affirmation before the Chief Justice of the High Court or the senior-most Judge. The oath is prescribed in this Article itself.

Article 160 : The President may make provision for the discharge of the functions of the Governor in any contingency not provided in the Constitution

Article 161 : The Governor shall have power to grant pardons, reprieves, respites or remissions of punishment or suspension of punishment to any person convicted under a State Law.

Article 162 The extent of the executive power of a State Government will be coextensive with the power of the State Legislature to make laws

Article 163 : There shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor in the exercise of his functions, except in so far as he is under this Constitution, required to exercise such functions in his discretion. If any question arises whether, in any matter, the Governor is to act according to his discretion or according to the advice of the Council of Ministers, his decision will be final. His decision in this matter cannot be questioned in a court of law

Article 164-67 Provisions similar to articles 75 to 78 : In the place of Attorney-General of India there will be Advocate-General for the State

CHAPTER III

THE STATE LEGISLATURE

Article 168 For every State there shall be a Legislature consisting of the Governor and one or two Houses. The Lower House in all the States will be known as Legislative Assembly. The upper House, Legislative Council, is there only in the States of Bihar, Maharashtra, Karnataka, Uttar Pradesh, Andhra Pradesh and Tamil Nadu

Article 169 Abolition or creation of Legislative Councils : If the Legislative Assembly of a State passes a resolution for creating or abolishing the Council, supported by a majority of the total membership and majority of not less than two-thirds of the members present and voting, the Parliament may by law provide for the creation or abolition of a Legislative Council. Any law providing for abolition or creation of the Legislative Council shall not be deemed to be an amendment of the Constitution

Article 170 : The Legislative Assembly of a State shall consist

of not more than 500 and not less than 60 members chosen by direct election from the territorial constituencies ; (not more than one Anglo-Indian may be nominated by the Governor to the Legislative Assembly)

Article 171 : The Legislative Council will have the total number of members not exceeding one-third of the total strength in the Legislative Assembly and not less than 40 members. Nearly one-third of the members in the Council shall be elected by the members of the Legislative Assembly. Nearly one-third of the members will be elected by the electorate consisting of members of Municipalities, District Boards and such other local authorities as the Parliament may specify by law. Nearly one-twelfth of the members will be elected by the registered graduates in the States ; another one-twelfth of the members will be elected by the registered teachers. The remainder shall be nominated by the Governor for their special knowledge or practical experience in literature, science, art, co-operative movement and social service.

Article 172 : The legislative Assembly shall have a normal duration of 5 years. Its life can be extended for a period not exceeding one year at a time during emergency. The Legislative Council is not subject to dissolution but one-third of the members will retire at the end of every second year.

Article 173-77 : Provisions similar to Articles 84 to 83.

Article 178-91 : Provision similar to Articles 89 to 102.

Article 192 : Questions regarding disqualifications of members of the State Legislature shall be decided by the Governor who will decide according to the opinion of the Election Commission in the matter.

Article 193-95 : Provisions similar to Articles 104 to 106.

LEGISLATIVE PROCEDURE

Article 196 : Provisions similar to Article 107.

Article 197 : After a Bill is passed by the Legislative Assembly of a State having a Legislative Council, the Bill will be transmitted to the Council. The Council may reject the Bill or suggest amendments or may not take any action on the Bill for 3 months. In all the above cases, if the Legislative Assembly wants the Bill to be passed either with the amendments suggested or without them, it may pass the Bill for the second time and may again transmit the Bill to the Council. The Council may reject the Bill, or may pass it with amendments or may not take action for a period of one month. In all these later cases, the Bill shall be deemed to have been passed by both Houses of Legislature, in the form in which it was passed by the Assembly the second time.

Article 198-99 . Provisions similar to Article 109 and 110.

Article 201 When a bill has been passed or is deemed to have been passed by a Legislative Assembly (in unicameral States) and by both Houses of the Legislature (in bicameral States), it will be presented to the Governor who shall assent to the Bill or withhold assent or send the Bill back to the House(s) with his message or may reserve the Bill for the consideration of the President

Article 201 . When a Bill is reserved for the consideration of the President, the Governor shall send the Bill to him. The President may assent to the Bill or withhold his assent or send the Bill back to the Legislature with his message. In the case of a Money Bill of a State, the President cannot return the Bill to the Legislature with his message. When a bill is returned with the message of the President, the Legislature shall reconsider the Bill within six months and may pass it with or without amendments. The Bill shall be again reserved for the consideration of the President

Article 202-209 : Provisions similar to those in Article 112 to 119.

Article 210 : The language to be used in the State Legislature will be the official language of the State or Hindi or English.

Article 211 . The State Legislature shall not discuss the conduct of any Judge of the Supreme Court or a High Court.

Article 212 Courts not to inquire into the proceedings of the Legislature

CHAPTER IV

LEGISLATIVE POWERS OF THE GOVERNOR

Article 213 Provisions similar to Article 123.

CHAPTER V

HIGH COURTS

Article 214 : Each State shall have a High Court.

Article 215 : High Court is a court of record and will have powers to punish for contempt of itself

Article 216 . A High Court shall consist of a Chief Justice and such other Judges as the President may appoint from time to time

Article 217 : A High Court Judge will be appointed by the President after consultation with the Chief Justice of India, the Governor of the State and the Chief Justice of the State. Age of

retirement of a High Court Judge is 62 years. The procedure for removal and resignation of a High Court Judge is similar to that of a Supreme Court Judge. To be appointed a Judge of the High Court, a person should be a citizen of India and should have held a judicial office for 10 years, or should have been an Advocate of a High Court in succession for 10 years.

Article 218 : Unimportant.

Article 219 : Oath or affirmation by Judges of High Courts.

Article 220 A Judge of a High Court is prohibited from pleading before any Court or authority except the Supreme Court and the other High Courts.

Article 221 : The salaries of the Judges will be as specified in the Second Schedule. The allowances and other service conditions will be determined by law by the Parliament.

Article 222 : Transfer of Judges : The President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to another. Such Judge will be entitled to receive compensatory allowance as may be fixed by the President.

Article 223 : Acting Chief Justice : In the case of vacancy or absence of a Chief Justice, any other Judge of the High Court may be appointed by the President to act as Chief Justice.

Article 224 : Additional and Acting Judges : If the President feels that more Judges should be appointed in a High Court because of any temporary increase in the business of the Court, or to clear the arrears of work, he may appoint a duly qualified person as an additional Judge for a period not exceeding two years. In the temporary vacancy of a regular High Court Judge, President may appoint a duly qualified person to act as a Judge during the vacancy. The retirement age of sixty-two will apply to Additional and Acting Judges as well.

Article 224A Appointment of retired Judges at sittings of High Court

Article 225 : Jurisdiction of the High Courts . The High Court will continue to have all the powers and jurisdiction which it had immediately before the commencement of the Constitution

Article 226 : Power of the High Courts to issue writs . A High Court may issue any of the conventional writs for enforcement of Fundamental Rights and for any other purpose.

Article 227 : Power of superintendence . Every High Court shall have superintendence over all courts and tribunals within its territorial jurisdiction

Article 228 : Transfer of cases : If a High Court is satisfied that a case pending in a subordinate Court involves a substantial question of law as to the interpretation of the Constitution, it may withdraw the case and may dispose of it or determine the question and may return the case to the Court concerned for disposal.

Article 229 : Officers and servants of the High Court are to be appointed by the Chief Justice. The expenses of High Court will be charged on the Consolidated Fund of the State.

Article 230 : The Parliament may by law extend territorial jurisdiction of a High Court to cover any Union territory.

Article 231 : The Parliament may by law establish a common High Court for two or more States or for two or more States and Union Territories

Article 232 : Deleted.

CHAPTER VI

SUBORDINATE COURTS

Article 233 : The Governor of a State shall appoint the District Judges in consultation with the High Court.

Article 233A : Unimportant.

Article 234-237 : Unimportant.

Part VII

Article 238 : Repealed.

Part VIII

THE UNION TERRITORIES

Article 239 : A Union Territory shall be administered by the President acting through an administrator.

Article 239A : Parliament may by law create a Council of Ministers and a Legislature for Pondicherry. The members of the Legislature will be partly nominated and partly elected.

Article 239B : The administrator of a Union territory may promulgate ordinances during the recess of Legislature after obtaining instructions from the President. However, he shall not promulgate any ordinance during the period of dissolution or suspension of the legislature.

Article 240 : The President may make regulations for the Union Territories of Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Pondicherry. Any such regulation will have the same force as an Act of Parliament.

Article 241 : Parliament may constitute a separate High Court for a Union Territory or may declare any court in such territory to be a High Court for the purposes of the Constitution.

Article 242 . Repealed

Part IX

(REPEALED)

Part X

THE SCHEDULED AND TRIBAL AREAS

Article 243 Repealed

Article 244 Administration of Scheduled Areas and Tribal Areas: The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the state of Assam, Meghalaya, Tripura, and Mizoram. The provisions of the sixth schedule shall apply to the administration of the Tribal area in the States of Assam, Meghalaya, Tripura and Mizoram.

Article 244A : Formation of an autonomous area comprising certain tribal areas in Assam and creation of a Legislature or Council of Ministers.

Part XI

RELATIONS BETWEEN THE UNION AND THE STATES

CHAPTER I

LEGISLATIVE RELATIONS

Article 245 : Parliament may make laws for the whole or any part of India, the Legislature of a State may make laws for the whole or any part of the State.

Article 246 : Parliament has the exclusive power to make laws on any matter in List I (Union List in the Seventh Schedule). The Legislature of a State has exclusive power to make laws on any matter in List II (State List in the Seventh Schedule), subject to certain conditions. The Parliament and the State Legislature have power to make laws on any matter in List III (Concurrent List in the Seventh Schedule). Parliament also has power to make laws on any State subject for the Union Territories and outside territories.

Article 247 : Parliament may, by law, provide for establishment of additional Courts, for better administration of laws made by it.

Article 248 : Residuary powers of legislation : The Parliament has exclusive power to make laws on any matter not enumerated in the Concurrent List or the State List.

Article 249 . Power of the Parliament to legislate on a State subject in national interest : If the Rajya Sabha passes a resolution supported by not less than two-thirds of the members present and voting that it is necessary in the national interest for the Parliament to enact law on a State subject, the Parliament may make law on that subject. A resolution made by the Rajya Sabha shall remain in force for a period not exceeding one year. The law made by the Parliament on the State subject shall cease to have effect at the expiration of six months from the one-year period mentioned above.

Article 250 . The Parliament may enact law on a matter in the State List when a Proclamation of Emergency is in operation. Any such law will cease to be effective six months after the Emergency is over.

Article 251 : In the case of inconsistency between laws made by Parliament and laws made by the State Legislature on a State subject, the Parliamentary law shall prevail.

Article 452 . Power of the Parliament to legislate on a State subject with consent of the States : If two or more States want the Parliament to enact a law on a State subject, common to them, the Parliament may do so.

Article 253 : The Parliament may enact law on a State subject for implementing any treaty or agreement with any other country or to implement a decision made at an international conference.

Article 254 : In case of inconsistency between a Parliamentary law and State law on any matter in the Concurrent List the central law will prevail, unless the State law having a provision repugnant to a provision of the Central law, has been reserved for the consideration of the President and has received his assent.

Article 255 : Requirements as to recommendations and previous sanctions to be regarded as matters of procedure only.

CHAPTER II

ADMINISTRATIVE RELATIONS

Article 256 : The executive power of a State shall be so exercised as to ensure compliance with a Union law ; for this purpose the Central Government may issue directions to a State.

Article 257 : The executive power of a State shall be so exercised as not to impede the executive power of the Union. Besides, the Union may issue directions to a State regarding construction and maintenance of means of communication of national or military importance and regarding measures to be taken for the protection of railways. Regarding expenditure in this connection, the State Government and the Central Government may agree mutually or may refer the matter to the Chief Justice of India for appointment of an arbitrator.

Article 258 : The President may, with the consent of a State Government, entrust a Central Government's functions to an officer of the State Government.

Article 258A : The Governor of a State may, with the consent of the Government of India, entrust to the Union Government's officers certain functions of the State Government.

Article 259 : Repealed

Article 260 : The Union Government will have exclusive jurisdiction in relation to territories outside India.

Article 261 : All public acts, records and judicial proceedings of the Union and of every State will be given full faith and credit throughout India.

Article 262 : Disputes relating to waters : Parliament may by law provide for adjudication of any dispute regarding the inter-state rivers or river valleys. No court shall have jurisdiction in these matters.

Article 263 : Inter-State Council : The President may appoint an Inter-State Council in public interest. The duties of such a Council will be to inquire into and advise on disputes between the States, to investigate matters of common interest for two or more States, and to make recommendations regarding co-ordination of policy and action on any subject.

Part XII

FINANCE, PROPERTY, CONTRACTS AND SUITS

Article 264 : Unimportant.

Article 265 : No tax shall be levied or collected except by authority of law.

Article 266 : Consolidated Fund of India, Consolidated Fund of each State, Public Account of India and Public Account of each State : No money out of any Consolidated Fund shall be appropriated except in accordance with law and for the purposes and in the manner provided in the Constitution.

Article 267 : Contingency Fund : The fund will be at disposal of the President or Governor of the State concerned as case may be, and will

be used by him to meet unforeseen expenditure, pending authorisation by Parliament or the Legislature of the State concerned as case may be

DISTRIBUTION OF REVENUES BETWEEN THE UNION AND THE STATES

Article 268 : It deals with duties levied by the Union but collected and appropriated by the States, e.g., stamp duties, Excise duties on medicinal and toilet preparations.

Article 269 **Taxes levied and collected by the Union but assigned to the States** : e.g., Succession Duties, Estate Duty, Terminal taxes, tax on railway fares and freights, tax on sale or purchase of newspapers. The net proceeds of any such tax or duty shall be distributed among the States according to principles formulated by Parliament by law.

Article 270 : Tax on income other than agricultural income shall be levied and collected by the Union but shall be distributed between the Union and the States as per prescribed percentage

Article 271 : The Parliament may levy a surcharge exclusively for the Union on certain duties and taxes mentioned in Articles 269 and 270.

Article 272 : Duties of excise on items other than medicinal and toilet preparation shall be levied and collected by the Union but a part of the collection may be distributed to the States according to law passed by the Parliament.

Article 273 : Unimportant.

Article 274 : Unimportant.

Article 275 : Grants from the Union to certain States: The Union may provide by way of assistance different sums of money to different States, including costs of schemes of development for the purpose of promoting the welfare of Scheduled Tribes and Scheduled Areas.

Article 276 **Procession Tax**: The State Legislature may enact law for taxes on professions, trades and employment. The maximum amount of such tax for any person in a State should not exceed Rs. 250/- per annum. Under the 60th Amendment, this limit has been raised to Rs. 2500.

Article 277 : Unimportant.

Article 278 : Deleted.

Article 279 : The method of calculation of 'net Proceeds'.

Article 280 : **Finance Commission** : The President may appoint Finance Commission every fifth year. The Commission shall consist of a Chairman and four other members whose qualifications will be determined by the Parliament by law. The duties of the Commission are to make recommendations to the President regarding

the distribution between the Union and the States of the net proceeds of the taxes, the principles which should govern grants-in-aid and any other matter referred to the Commission by the President.

Article 281 : The report of Finance Commission shall be laid before the Parliament

Article 282 Unimportant.

Article 283 : Custody of the Consolidated Fund, the Contingency Fund and the Public Account

Article 284 : Unimportant.

Article 285 : The property of the Union will be exempt from the State taxes.

Article 286 : Restrictions on State laws regarding imposition of tax on the sale or purchase of goods outside the State or for export,

Article 287 : Exemption from taxes on electricity.

Article 288 . Unimportant.

Article 289 The property and income of a State shall be exempt from Union taxation

Article 290-A; Unimportant.

Article 291 : Relating to abolition of Privy Purses.

Article 292 : Borrowing by the Government of India.

Article 293 Borrowing by State Governments.

Article 294-296 : Unimportant.

Article 297 Things of value within the territorial water or Continental Shelf and resources of the Exclusive Economic Zone are to vest in the Union

Article 298 : Power of Governments to carry on trade.

Article 299 : Contracts of the Government.

Article 300 Suits and proceedings by or against the Government.

Article 300A : **Right to property** : No person shall be deprived of his property except by authority of law.

Part XIII

TRADE, COMMERCE AND INTERCOURSE WITHIN THE TERRITORY OF INDIA

Article 301 : There shall be freedom of trade, commerce and intercourse throughout India.

Article 302 . Parliament may by law impose restrictions on any inter-state commerce of trade.

Article 303-307 : Certain restrictions on the legislative powers of the Union and the States with regard to trade and commerce

Part XIV

SERVICES UNDER THE UNION AND THE STATES

CHAPTER I

SERVICES

Article 308 : This Part generally does not apply to Jammu and Kashmir

Article 309 : Recruitment and conditions of service of persons serving the Union or a State.

Article 310 Every person who is a member of a defence service or of a civil service of the Union or of an All-India Service or holds any defence or civil post under the Union holds office during the pleasure of the President. Every person who is a member of civil service of a State or holds any civil post under a State holds office during the pleasure of the Governor.

Article 311 : A person who is a member of a Union Civil Service or of an All-India Service or of a State civil service or holds a civil post under the Union or a State has the following protections: He shall not be dismissed or removed by an authority subordinate to the appointing authority. Before dismissal, removal or reduction in rank of such a person, an enquiry should be held against him on specific charges and he should be given a reasonable opportunity of being heard. This protection will not however apply in the case of a person who has been convicted on a criminal charge or in those cases when the authority holds that it is not reasonably practicable to hold an enquiry or in case the President or the Governor is satisfied that in the interests of the security of the State, it is not expedient to hold such an enquiry.

Article 312 : **All India Services** : If the Council of States declares by a resolution supported by not less than two-thirds of the members present and voting, that it is necessary in the national interest to create one or more All-India Services, the Parliament may by law do so. The Constitution mentions only two All-India Services i.e., I.A.S. and I.P.S. (The third at present is Indian Forest Service).

Article 312A : Power of Parliament to change conditions of service of I.C.S. and other officers.

Article 313 : Unimportant.

Article 314 : *Repealed.*

CHAPTER II

PUBLIC SERVICE COMMISSIONS

Article 315: There shall be a Public Service Commission for the Union and a Public Service Commission for each State. However, two or more states may agree for the creation of a joint State Public Service Commission to be created by law by the Parliament.

Article 316 : The Chairman and members of Union Public Service Commission will be appointed by the President. The Chairman and members of a State Commission will be appointed by the Governor. The tenure of a member of a Public Service Commission will be six years, subject to the maximum age limit of 65 for the U.P.S.C and 62 for the State Commission. A member may resign by writing to the President or the Governor as the case may be. No member of a Public Service Commission will be eligible for reappointment to the same post.

Article 317 : A member of any Public Service Commission may be removed by the President if he is adjudged as an insolvent or engages in any paid employment outside the office or is unfit to continue in office by reason of infirmity of mind or body. Except in the above cases, a member or Chairman of a Commission can be removed from office only by the order of the President on the ground of misbehaviour after the Supreme Court, reference being made to it by the President, holds an inquiry and recommends his removal.

Article 318 The President or the Governor as the case may be shall have power to make Regulations regarding service conditions of members and staff of the Commission concerned.

Article 319 : Prohibition regarding holding of office by members of the Commission on ceasing to be such members: The Chairman of U P S C. shall be ineligible for further employment under any Government. The Chairman of a State Public Service Commission shall be ineligible for any employment except as the Chairman or member of the U.P.S.C. or as the Chairman of any other State Public Service Commission.

Article 320 Functions of Public Service Commissions: (1) To conduct examinations for appointment to the services of the Union and of the States respectively, (2) to be consulted by the Government concerned on matters relating to methods of recruitment, promotions, transfers and disciplinary actions against Government servants, and in respect of all claims for disability pension.

Article 321 : Unimportant.

Article 322 : Expenses of all Public Service Commissions to be charged to the Consolidated Fund of India or the State, as the case may be.

Article 323 : Reports of Public Service Commissions shall be presented to the President or the Governor as the case may be, and will be laid before each House of Parliament and before the concerned State Legislature respectively.

Part XIV A

TRIBUNALS

Article 323A : Administrative Tribunals : Parliament may by law provide for administrative tribunals to hear disputes and complaints regarding Union, State or local Government employees. Public Sector undertakings also may be covered by these tribunals

Article 323B : Tribunals for other matters : The appropriate legislature may by law provide for tribunals to decide disputes, complaints or offences relating to matters such as taxes, foreign exchange, industrial and labour disputes, land reforms, ceiling on urban property, elections, food procurement and distribution and other matters.

Part XV

ELECTIONS

Article 324 : Election Commission : The superintendence, direction and control of the preparation of electoral rolls and the conduct of elections shall be vested in the Election Commission. The Commission will be responsible for the elections to the Parliament and State Legislatures and to the offices of president and Vice-president. The Commission shall consist of a Chief Election Commissioner and such other Election Commissioners as may be appointed by the president. There is a provision for appointing Regional Commissioners also. The Commission will make use of the staff of the Union and of the States for the discharge of its functions

Article 325 : In India there shall be one general electoral roll. No person shall be discriminated against in the matter of inclusion in the electoral roll, on grounds only of religion, race, caste or sex

Article 326 : Elections to the Lok Sabha and to the State Assemblies are to be held on the basis of adult suffrages. A person of 18 years of age, when not disqualified on the ground of non-residence, unsoundness of mind, crime, corrupt or illegal practice, shall be entitled to be a voter.

Article 327 : Power of the Parliament to make provisions regarding elections to all legislatures in India

Article 328 : Power of the Legislature of a State to make provisions regarding election to the Legislature of the State subject to the provision of Article 327

Article 329 : Elections to the Parliament or to a State Legislature shall not be called in question in a Court of law, except in the manner provided by law made by the appropriate Legislature

Part XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

Article 330 · Seats shall be reserved in the Lok Sabha for Scheduled Castes and Scheduled Tribes (except in the Tribal areas of Assam, Nagaland, Meghalaya, Arunachal Pradesh and Mizoram). At present the number of reserved seats is 78 and 30 respectively)

Article 331 : The President may appoint two Anglo-Indians to represent their community in the House of the People.

Article 332 · There shall be reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assembly of each State except in Nagaland and Meghalaya. The number of seats reserved for the Scheduled Castes and Tribes will be roughly in proportion to their population to the total population of the State.

Article 333 · The Governor of a State may give representation to the Anglo-Indian Community by nominating not more than one member to the Assembly.

Article 334 : Reservation of seats for Scheduled Castes and Scheduled Tribes and special representation for the Anglo-Indian community shall cease after a period of 50 years from the commencement of the Constitution.

Article 335 The claims of the members of Scheduled Castes and Scheduled Tribes shall be taken into account, consistent with the maintenance of the efficiency of administration, in making appointments to services and posts in Union and State Governments

Article 336-337 : Unimportant.

Article 338 A Special Officer for Scheduled Castes and Tribes shall be appointed by the President. His duty is to investigate all matters relating to safeguards provided for Scheduled Castes and Tribes and to report to the President regarding further safeguards

Article 339 · **Control of the Union over the administration of Scheduled areas and welfare of Scheduled Tribes** : The President may appoint a Commission to report on this matter. The executive power of the Union shall extend to giving of directions to State Governments regarding drawing up and execution of schemes specified in the direction for the welfare of the Scheduled Tribes in the States

Article 340 **Backward Classes Commission** : The President may appoint a Commission to investigate the conditions of socially and educationally backward classes and to make recommendations to improve their conditions. The President shall cause to lay before the Houses of Parliament the copy of the report of the Commission along with a memorandum, explaining the action proposed to be taken thereon.

Article 341 : The President to publish the list of Scheduled Castes.

Article 342 : The President to publish the list of Scheduled Tribes.

Part XVII

OFFICIAL LANGUAGE

Article 343 : The official language of the Union is Hindi in Devanagari script. The numerals to be used for Union official purposes will be the international form of Indian numerals. However, for the period of fifteen years from the commencement of the Constitution, English was to be used for all official purposes. Besides Parliament may by law provide for the use of the English Language, or Devanagari form of numerals even after a period of fifteen years.

Article 344 : At the end of five years from the commencement of the Constitution, the President was to appoint a Commission to make recommendations regarding progressive use of Hindi for Union official purposes and restrictions on the use of English. The Commission had to take into account the just claims and interests of the non-Hindi speaking people regarding public services.

Article 345 : The Legislature of a State may adopt any one or more of the languages in use in the State or Hindi as the language to be used for official purposes of the State. However, English shall continue to be used until the State Legislature provides otherwise.

Article 346 : Official language for communication between one State and another or between a State and the Union shall be the Union official language.

Article 347 : If the president is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, he may direct that such language shall also be officially recognised in that state.

Article 348 : Until the Parliament by law provides otherwise all proceedings in the Supreme Court and in every High Court and the authoritative texts of all Bills and accounts shall be in English. However, the Governor of a State may, with the consent of the President, authorise the use of Hindi or any other language for proceedings in the High Court.

Article 349 : Unimportant.

Article 350 : Every person shall be entitled to submit a representation for the redress of any grievance to any officer of the Union or of a State in any language used in the Union or in the State.

Article 350A : The President may issue instructions to a State regarding provision of facilities for instruction in mother tongue at the primary stage of education.

Article 350B : A Special Officer for linguistic minorities shall be appointed by the president. It shall be the duty of the Special Officer to investigate all matters relating to the safeguards for linguistic minorities and to make recommendations. The president may cause to lay all such reports before the Parliament or the appropriate State Legislature.

Article 351 It shall be the duty of the Union to promote the spread of Hindi and its enrichment.

Part XVIII

EMERGENCY PROVISIONS

Article 352 : If the president is satisfied that a grave emergency exists threatening the security of India or any part of it by war, external aggression or armed rebellion, he may issue a proclamation of emergency. Such a proclamation may be issued even before the actual occurrence of war etc., if the President is satisfied of the imminent danger of it. A proclamation may be revoked by a subsequent proclamation.

For issuing the proclamation, the president should get the decision of the Union Cabinet in writing. Every proclamation shall be laid before each House of Parliament and shall cease to operate at the expiry of one month unless before that period it has been approved by resolutions of both Houses of Parliament. The proclamation approved by the Parliament shall cease to operate on the expiration of six months provided that if a resolution approving the continuance of such a proclamation is passed by Parliament, it may continue for a further period of six months. Thus the proclamation of Emergency may be extended at the rate of six months at a time. A resolution supporting the Proclamation is to be passed by a majority of the total membership of a House and by a majority of not less than two-thirds of the members of that House present and voting. A proclamation of Emergency should be revoked by the President if the Lok Sabha passes a resolution disapproving of it. For the purpose of disapproving the continuance of Emergency, a 14-day notice in writing signed by not less than one-tenth of the total number of members in the Lok Sabha may be given for requisitioning a special sitting of the House.

Article 353 · Effect of proclamation of Emergency : While Emergency is in force the executive power of the Union will extend to the giving directions to the State Governments regarding the

exercise of the executive power of the latter. The Parliament will have power to make laws on any matter in the State List

Article 354 : While Emergency is in force the President may, by order, change any provision of Article 268 to 279, relating to distribution of revenues between the Central and State Governments

Article 355 : It is the duty of the Union to protect every state against external aggression and internal disturbance and to ensure that the Government of a State is carried on in accordance with the provisions of the Constitution.

Article 356 : President's Rule : If the President, on receipt of a report from the Governor or otherwise, is satisfied that a situation has arisen in which the Government of a State cannot be carried on in accordance with the provisions of the Constitution, the President may issue a proclamation. In that proclamation he may assume to himself all the powers vested in the Governor, the Government of the State or any other body or authority other than the legislature or the High Court. He may declare that the powers of the State legislature shall be exercised under the authority of Parliament. Any such proclamation may be revoked by a subsequent Proclamation.

Every such proclamation should be laid before each House of Parliament and should cease to operate at the expiration of two months unless each House of Parliament approves of it by resolution. Even after such approval, a proclamation shall cease to operate on the expiration of six months from the date of issue of the proclamation. The President's rule may be imposed for six months in the first instance and may be continued for another six months only. Beyond the period of one year from the date of issue of such proclamation, the President's rule shall not be continued unless a proclamation of Emergency under Article 352 is in force and the Election Commission certifies that there are difficulties in holding elections to the Legislative Assembly of the State. However, the maximum period of President's rule cannot go beyond three years in any case. (Note: The Constitution does not use the term 'President's rule')

Article 357 : The Parliament may confer on the President the powers of the State Legislature to make laws and may also authorise the President to delegate such powers to any other authority. President may authorise expenditure from the Consolidated Fund of the State if the House of the People is not in session.

Article 358 : While Proclamation of Emergency under Art. 352 is in force on the ground of war or external aggression, the provisions of Art. 19 will remain automatically suspended.

Article 359 : While a proclamation of Emergency is in force, the President may, by order, declare that the right of a person to move any court for enforcement of the rights in Part III (except

Articles 20 and 21 will remain suspended during the period of Emergency. However, the same rights may be enforced through the courts after the Emergency is over.

Article 359A : This Article prescribed 'internal disturbance' as an additional ground for the imposition of Emergency in Punjab. However this Article inserted by the 59th Amendment of 1988 was repealed by the 63rd Amendment of 1989.

Article 360 : Financial Emergency If the financial stability or credit of India is threatened, the President may issue a Proclamation to that effect. Such a proclamation will cease to be operative after a period of two months unless it is approved by both Houses of parliament. During the financial emergency, the executive power of the Union will extend to the giving directions to any State to observe canons of financial propriety and to reduce salaries and allowances of all Constitutional functionaries and officials. There is no time limit for financial emergency. It will continue until the president revokes it.

Note Financial Emergency has never been imposed so far.

Part XIX

MISCELLANEOUS

Article 361 : Protection of President and Governors : They are not answerable to any court for the performance of their duties. No criminal proceedings can be filed against them during their term of office. They cannot be arrested or imprisoned during the term of office. Civil proceedings against any of them can be instituted only after a two-months' notice.

Article 361A : No person shall be liable for any proceedings in a court for the publication, in a newspaper, or a substantially true report of the proceedings of any House of the Parliament or of a State Legislature. The same protection is available to broadcasting also.

Article 362 . Repealed

Article 363 : Bar to interference by courts in disputes arising out of certain treaties, agreements etc.

Article 363A : Derecognition of the Rulers of the Indian States and the abolition of their privy purses

Article 364 : The Parliament is empowered to enact laws applicable to major ports and aerodromes.

Article 365 : When a State fails to comply with the directions given by the Union Government, it shall be lawful for the President to assume that a situation has arisen in which the Government of the States cannot be carried on in accordance with the provisions of the Constitution.

Article 366 . Definition of various terms

Article 367 . Unimportant

Part XX

AMENDMENTS TO THE CONSTITUTION

Article 368 : Power of the Parliament to amend the Constitution and the procedure The Parliament may, in exercise of its Constituent power, amend by way of addition, variation or repeal any provision of the Constitution in accordance with the procedure laid down in this Article. A Bill for Constitutional Amendment may be introduced in either House of Parliament. After the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of the House present and voting, it shall be presented to the President who shall give his assent to the Bill.

Any amendment to the following provisions of the Constitution will have to be ratified by the legislatures of not less than one-half of the number of States, only after such ratification the Bill shall be presented to the President for his assent,

- (a) Articles 54, 55, 73, 162, and 341,
- (b) Chapter IV of Part V dealing with the Supreme Courts, Chapter V of Part VI dealing with the High Courts Chapter 1 of Part XI dealing with the Legislative relations between the Centre and the States;
- (c) Any of the Lists of the Seventh Schedule ;
- (d) The representation of States in Parliament ,
- (e) Article 368 itself

Nothing in Article 13 shall apply to any Constitutional amendment. *(The Supreme Court, in the Minerva Mills Case, has struck down as unconstitutional clauses 4 and 5 of this Article which provide that no Constitutional amendment shall be called in question in any court on any ground and that there shall be no limitation whatever on the power of the Parliament to amend the Constitution)*

Part XXI

TEMPORARY, TRANSITIONAL AND SPECIAL PROVISIONS

Article 369 : Unimportant

Article 370 : Temporary provisions relating to Jammu and Kashmir : The Indian Constitution applies to J & K with such modifications as are contained in or resulting from this Article According to this Article, the power of the Parliament to make laws for J & K is limited to those matters in the Union List and the Concurrent List which correspond to matters specified in the Instrument of Accession and such other matters which the President may specify with the concurrence of the Government of the State This

Article makes a reference to the Constituent Assembly of Jammu and Kashmir which discussed the necessary modifications as applicable to the State, and announced that since 17 November 1952 the provisions of Article 370 shall be operative with such modification as are accommodated by this Article. For effecting changes in the J & K Constitution the concurrence of the Government acting on the advice of the Council of Ministers shall be necessary. The modification of the Indian Constitutional Articles as applicable to J & K was announced in the Order of the President, "The Constitution (Application to Jammu and Kashmir) Order, 1954". The exact text of the J and K Constitution was announced on 20th June, 1964 and has been amended periodically since then. It is provided that the President may declare that this Article shall cease to be operative provided the Constituent Assembly of the State makes a recommendation to this effect to the President. In particular it is to be noted that the imposition of President's rule under Article 356 applies to J and K.

Article 371 : Special provisions relating to Maharashtra and Gujarat : The President may order the establishment of separate Development Boards for Vidarbha, Marathwada, the rest of Maharashtra, Saurashtra, Kutch and the rest of Gujarat.

Article 371A : Special provisions regarding Nagaland.

Article 371B : Special provisions regarding Assam.

Article 371C : Special provisions regarding Manipur.

Article 371D : Special provisions regarding Andhra Pradesh.

Article 371E : Parliament may by law provide for the establishment of a Central University in the State of Andhra Pradesh

Article 371F . Special provisions regarding Sikkim.

Article 371G : Special provisions regarding Mizoram.

Article 371H : Special provisions regarding Arunachal Pradesh.

Article 371I : Special provisions regarding Goa.

Article 372 : Continuance in force of existing laws and their adaptation.

Article 372A : Power of the President to adapt laws.

Article 373 : Power of the President to make order in respect of persons under Preventive Detention in certain cases.

Article 374 : Unimportant.

Article 375 : Courts, authorities and officers in India to continue to function subject to the provisions of the Constitution.

Article 376-378 : Unimportant.

Article 379-391 : Repealed.

Article 392 : Power of the President to remove difficulties.

Part XXII

SHORT TITLE, COMMENCEMENT AND REPEALS

Article 393 : This Constitution may be called the Constitution of India.

Article 394 : **Commencement** : Some of the Articles came into force at once i.e. on 26.11.1949 and the remaining Articles came into force on 26 January 1950, which day is referred to in the Constitution as the commencement of the Constitution.

Article 394A : **The authoritative text in the Hindi language** This Article enables the President to publish under his authority the translation of the Constitution and its amendments in Hindi.

Article 395 The Indian Independence Act 1947, the Government of India Act 1935, etc stand repealed.

FIRST SCHEDULE

The territorial extent of the 25 States and 7 Union Territories are described in this Schedule

SECOND SCHEDULE

This schedule relates to the emoluments, allowances and service conditions of the President, the Governors of States, Speaker and Deputy Speaker, Chairman and Deputy Chairman, the Judges of the Supreme Court and of the High courts and the Comptroller and Auditor-General of India. In the relevant Articles of the Constitution it is provided that the salaries etc., of all these personalities shall be determined by the Parliament by law. So these emoluments etc. can be refixed, from time to time, by Parliamentary laws. Such an enabling provision was not made in the case of Judges of the Supreme Court and of the High Courts in the original Articles of the Constitution. Only through the 54th Amendment of 1986 the relevant Articles were amended to provide for periodic refixation of salaries etc. of the Judges through Parliamentary law. As a result, one who reads the second schedule will notice the anomaly that the salaries of the President, Governor and C and AG are mentioned at the old rates (1950) and the salaries of the Judges are mentioned at the new rates (1986). The salary of the C and AG is equated to the salary of a Supreme Court Judge through a Parliamentary law of 1971.

The present emoluments of the important Constitutional functionaries are as follows :

President	Rs. 20,000
Governor of a State	Rs. 11,000
Chief Justice of India	Rs. 10,000
Judge of the Supreme Court	Rs. 9,000

Chief Justice of a High Court	Rs. 9,000
Judge of a High Court	Rs. 8,000
The Comptroller of Auditor-General of India	Rs. 9,000

The emoluments of the Vice President (Chairman of the Council of States), Speaker of the House of the People, Deputy Speaker, and Deputy Chairman of 'Rajya Sabha', Speaker, Deputy Speaker, Chairman and Deputy Chairman of the State Legislatures are not specified in the Constitution. Their salaries and allowances are governed by the laws passed by the Parliament and the State Legislatures respectively.

THIRD SCHEDULE

Forms of oath of affirmation for different Constitutional functionaries are prescribed in this Schedule. In the case of oath there is swearing in the name of God, in an affirmation, the reference to God is omitted. The forms of oath or affirmation are prescribed for the Union Ministers, candidates for membership of Parliament, members of Parliament, Judges of the Supreme Court, C and AG, Ministers of State Governments, candidates for membership of a State Legislature, members of State Legislature, and Judges of High Courts. It is worth noting that the same form is prescribed for the Judges of the Supreme Court and the C and AG. For all the others there are slight variations in the statements. The Ministers have to take an oath of secrecy in addition to the oath of office. The candidate should note that the forms of oath or affirmation for the President, Vice-President and the Governor of a State are prescribed in the body of the Constitution itself (*in the relevant Articles*).

FOURTH SCHEDULE

ALLOCATION OF SEATS IN THE COUNCIL OF STATES

(As at Present)

1. Andhra Pradesh	18
2. Assam	7
3. Bihar	22
4. Goa	1
5. Gujarat	11
6. Haryana	5
7. Kerala	9
8. Madhya Pradesh	16
9. Tamil Nadu	18
10. Maharashtra	19
11. Karnataka	12
12. Orissa	10
13. Punjab	7

14. Rajasthan	10
15. Uttar Pradesh	34
16. West Bengal	16
17. Jammu and Kashmir	4
18. Nagaland	1
19. Himachal Pradesh	3
20. Manipur	1
21. Tripura	1
22. Meghalaya	1
23. Sikkim	1
24. Delhi	3
25. Pondicherry	1
26. Mizoram	1
27. Arunachal Pradesh	1
Total	<hr/> 233

FIFTH SCHEDULE

Provisions relating to the Administration and Control of Scheduled areas and Scheduled Tribes.

The President is empowered to declare an area as Scheduled Area. The Union Government may issue directions to State Government regarding the administration of Scheduled Areas. This Schedule does not apply to Assam, Meghalaya, Mizoram and Tripura.

SIXTH SCHEDULE

Provisions relation to the Administration of Tribal Areas in the States of Assam and Meghalaya, Mizoram and Tripura.

An autonomous district will have a District Council which will have legislative powers under overall control of the Governor. It may also be vested with the powers of a court of appeal and will have power to establish primary schools, to collect land revenues and to impose taxes. It may grant licences of lease for prospecting of minerals and may regulate money-lending and trading by non-tribals within the district. If there are different Scheduled Tribes in an autonomous district, the Governor may by public notification divide the area inhabited by them into autonomous regions. In each of such regions, a Regional Council may be set up which will have the same type of functions as a District Council, subject to the overall control and supervision of the concerned District Council. The Districts having District Council are : North Cachar Hills District, and Karbi Anglong District in Assam ; Khasi Hills District, Jaintia Hills District and Garo Hills District in Meghalaya ; The Chakama District, the Lakher District and the Pawi District of Mizoram ; Tripura Tribal Areas District.

SEVENTH SCHEDULE

List I—Union List Defence, deployment of the armed forces of the Union in any State in aid of the civil power, arms and ammunition, atomic energy, war-related industries, preventive detention connected with defence etc., foreign affairs, war and peace, citizenship, passports, and visas, railways, national highways, major ports, aircrafts and aerodromes, post and telegraph, currency, lotteries of Governments, inter-state trade and commerce, banking, insurance, stock exchange, weights and measures, deep-sea fishing, film certification, national institutions and monuments, census, elections to Parliament and State Legislatures, income tax, customs duties, Union excise duties, corporation tax, estate, terminal taxes, etc.

List II—State List : Public order, Police, Prisons, local government, public health, pilgrimages, prohibition and liquor, agriculture, animal husbandry, land and water resources, fisheries, markets, money lending, cinema theatres, land revenue, agricultural income tax, state excise duties, capitation, taxes etc

List III—Concurrent List : Criminal procedure and Criminal law, preventive detention, contract, marriage, trusts, civil procedure, forests, planning, trade unions, education, minor ports, shipping, price control, factories, electricity, newspapers.

EIGHTH SCHEDULE

Languages 1 Assamese, 2 Bengali, 3 Gujarati, 4 Hindi, 5 Kannada, 6. Kashmiri, 7. Malayalam, 8 Marathi, 9. Oriya, 10 Punjabi, 11 Sanskrit, 12. Sindhi, 13. Tamil, 14 Telugu, 15 Urdu.

NINTH SCHEDULE

257 items of laws and regulations are listed in the Schedule

TENTH SCHEDULE

This Schedule is linked to Articles 102 and 191 dealing with disqualifications of members of Parliament and State Legislatures on the ground of defection. It is in this Schedule that the terms 'Political Party' and 'legislature party' are inserted for the first time in the constitution. It should be noted that for the purposes within the House it is the 'legislature party' which counts and not the political party. 'Legislature party' means the group consisting of all the members of a House for the time being belonging to a particular party. The Schedule discusses elaborately the nature of disqualification that will be incurred with regard to voting in the Houses, provisions in the case of split or merger, exemptions, the authority to make decisions in this regard and the provision for framing rules and maintenance of registers. The jurisdiction of courts is barred in any matter relating to this Schedule. The main provisions are given below :

2. *Disqualification on ground on defection :*

- (1) Subject to the provisions of paragraph 3, 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—
 - (a) if he has voluntarily given up his membership of such political party ; or
 - (b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention

Explanation. For the purposes of this sub-paragraph,

- (a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member ,
- (b) a nominated member of a House shall,
 - (i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party ,
 - (ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with requirements of Article 99 or, as the case may be, Article 188
- (2) An elected member of a House who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a member of the House if he joins any political party after such election
- (3) A nominated member of a House shall be disqualified for being a member of the House if he joins any political party after expiry of six months from the date on which he takes his seat after complying with the requirements of Article 99 or, as the case may be, Article 188.
- (4) Notwithstanding anything contained in the foregoing provisions of this paragraph, a person who, on the commencement of the Constitution (Fifty-second Amendment) Act, 1985, is a member of a House (whether elected or nominated as such) shall .

- (i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of sub-paragraph (1) of this paragraph to have been elected as a member of such House as a candidate set up by such political party ;
 - (ii) in any other case, be deemed to be an elected member of the House who has been elected as such otherwise than as a candidate set up by any political party for the purposes of sub-paragraph (2) of this paragraph or, as the case may be, deemed to be a nominated member of the House for the purposes of sub-paragraph (3) of this paragraph.
- (3) *Disqualification on ground of defection not to apply in case of Split* : Where a member of a House makes a claim that he and any other members of his legislature party constitute the group representing a faction which has arisen as a result of the split in his original political party and such group consists of not less than one-third of the members of such legislature party :
- (a) he shall not be disqualified under sub-paragraph (1) of paragraph 2 on the ground :
 - (i) that he has voluntarily given up his membership of his original politically party , or
 - (ii) that he has voted or abstained from voting in such House contrary to any direction issued by such party or by any person authorised by it in that behalf without obtaining the prior permission of such party, person or authority and such voting or abstention has not been condoned by such party, person or authority within fifteen days from the date of such voting or abstention , and
 - (b) from the time of such split, such faction shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original political party for the purposes of this paragraph.
- (4) *Disqualification on ground of defection not to apply in case of a merger* :
- (1) A member of a House shall not be disqualified under sub-paragraph (1) of paragraph 2 where his original political party merges with another political party and he claims that he and any other members of his original political party :

- (a) have become members of such other political party or, as the case may be, of a new political party formed by such merger, or
- (b) have not accepted the merger and opted to function as a separate group.

and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 2 and to be his original party for the purposes of this sub-paragraph

- (2) For the purposes of paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place it, and only if, not less than two thirds of the members of the legislature party concerned have agreed to such merger
- (5) *Exemption* Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Deputy Chairman of the Council of States or the Chairman of the Legislative Council of a State or the Speaker or the Deputy Speaker of the Legislative Assembly of a State, shall not be disqualified under this Schedule :
 - (a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or becomes a member of another political party, or
 - (b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office
- 6 *Decision on questions as to disqualification on ground of defection* :
 - (1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final ;

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject

to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

- (2) All proceedings under sub-paragraph (1) of this paragraph in relation to any question as to disqualification of a member of a House under this Schedule shall be deemed to be proceedings in Parliament within the meaning of Article 122 or, as the case may be, proceedings in the Legislature of a State within of the meaning of Article 212)

AMENDMENTS TO THE CONSTITUTION

1. *The Constitution (First Amendment) Act, 1950* : This amendment provided for several new grounds of restrictions to the right to freedom of speech and expression and the right to practice any profession or to carry on any trade or business as contained in article 19 of the Constitution. These restrictions related to public order, friendly relations with foreign States or incitement to an offence in relation to the right to freedom of speech, and to the prescribing of professional or technical qualifications or the carrying on by the State, etc., of any trade, business, industry or service in relation to the right to carry on any trade or business. The amendment also inserted two new article, 31A and 31B and the Ninth Schedule to give protection from challenge to land reforms laws.
2. *The Constitution (Second Amendment) Act, 1952* : By this amendment, the scale of representation for election to Lok Sabha was readjusted.
3. *The Constitution (Third Amendment) Act, 1954* : This amendment substituted entry 33 of List III (Concurrent List) of the Seventh Schedule to make it correspond to article 369.
4. *The Constitution (Fourth Amendment) Act, 1955* . Article 312 of the Constitution was amended to re-state more precisely the State's power of compulsory acquisition and requisitioning of private property and distinguish it from cases where the operation of regulatory or prohibitory laws of the State results in "deprivation of Property". Article 31A of the Constitution was also amended to extend its scope to cover categories of essential welfare legislation like abolition of zamindaris, proper planning of urban and rural areas and for effecting a full control over the mineral and oil resources of the country, etc. Six Acts were also included in the Ninth Schedule. Article 305 was also amended to save certain laws providing for State monopolies
5. *The Constitution (Fifth Amendment) Act, 1955* : This amendment made a change in article 3 so as to empower the President to specify a time limit for the State Legislatures to convey

their views on the proposed Central laws affecting the areas, boundaries, etc., of their States.

6. *The Constitution (Sixth Amendment) Act, 1956* : This amendment made some changes in article 269 and 286 relating to taxes on sale and purchase of goods in the course of inter-State trade and commerce. A new entry 92A was added to the Union List of the Seventh Schedule to the Constitution.
7. *The Constitution (Seventh Amendment) Act, 1956* . This amendment Act purported to give effect to the recommendations of the States Reorganisation Commission and the necessary consequential changes. Broadly the then existing States and territories were changed to have two fold classification of States and Union Territories. The amendments also provided for composition of the House of the People, re-adjustment after every census, provisions regarding the establishment of new High Courts, High Court Judges, etc.
8. *The Constitution (Eighth Amendment) Act, 1960* : Article 334 was amended with a view to extending the period of reservation of seats for the Scheduled Castes and the Scheduled Tribes, and to the Anglo-Indian community by nomination, in Parliament and in the State Legislatures for a further period of ten years.
9. *The Constitution (Ninth Amendment) Act, 1960* : The purport of this amendment is to give effect to the transfer of certain territories to Pakistan in pursuance of the agreement entered into between the Governments of India and Pakistan. This amendment was necessitated in view of the judgement of the Supreme Court "*In re Berubari Union*" by which it was held that any agreement to cede a territory to another country could not be implemented by a law made under article 3 but would only be implemented by an amendment of the Constitution.
10. *The Constitution (Tenth Amendment) Act, 1961* : This act, amended article 240 and the First Schedule in order to include the areas of Dadra and Nagar Haveli as a Union Territory and to provide for its administration under the regulation-making powers of the President.
11. *The Constitution (Eleventh Amendment) Act, 1961* . The purpose of this amendment was to amend articles 66 and 71 of the Constitution to provide that the election of the President or the Vice-President could not be challenged on the ground of any vacancy in the appropriate electoral college.
12. *The Constitution (Twelfth Amendment) Act, 1962* : This amendment sought to include Goa, Daman and Diu as a union territory and to amend article 240 for the purpose.

13. *The Constitution (Thirteenth Amendment) Act, 1962* : By this amendment, a new article 371A was added to make special provisions with respect to the State of Nagaland in pursuance of an agreement between the Government of India and the Naga Peoples' Convention
14. *The Constitution (Fourteenth Amendment) Act, 1962* : By this Act, Pondicherry was included in the First Schedule as a union territory, and this Act had also enabled the creation of legislature by Parliamentary law for the union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu and Pondicherry
15. *The Constitution (Fifteenth Amendment) Act, 1963* : This amendment provided for the increase in the age of retirement of High Court Judge and for the provision of compensatory allowance to Judges who are transferred from one High Court to another. The Act also provided for the appointment of retired Judges to act, Judges of the High Court Article 226 was also enlarged to empower the High Courts to issue directions, orders or writs to any Government authority, etc, if the cause of action for the exercise of such power arose in the territories wherein the High Court exercises jurisdiction notwithstanding that the seat of such Government authority is not within those territories, the Act also provided for the exercise of the powers of the Chairman of the Service Commission, in their absence, by one of their Members
16. *The Constitution (Sixteenth Amendment) Act, 1963* : Article 19 was amended by this Act, to impose further restrictions on the right to freedom of speech and expression, to assemble peaceably and without arms and to form associations in the interest of sovereignty and integrity of India The oath of affirmation to be subscribed by candidates seeking election to Parliament and the State Legislature have been amended to include as one of the conditions that they will uphold the sovereignty and integrity of India The amendments are intended to promote national integration
17. *The Constitution (Seventeenth Amendment) Act, 1964* : Article 31A was further amended to prohibit the acquisition of land under personal cultivation unless the market value of the land is paid as and the definition of "estate" as contained in that article had also been enlarged with retrospective effect The Ninth Schedule had also been amended to include 44 more Acts
18. *The Constitution (Eighteenth Amendment) Act, 1966* : Article 3 was amended by this Act, to specify that the expression "State" will include a Union Territory also and to make it clear that the power to form a new state under this article includes

a power to form a new State or Union Territory by uniting a part of a state or Union Territory to another state or Union Territory

19. *The Constitution (Nineteenth Amendment) Act, 1966* : Article 324 was amended to effect a consequential change as a result of the decision to abolish Election Tribunals and hearing of election petitions by the High Courts
20. *The Constitution (Twentieth Amendment) Act, 1966* This amendment was necessitated by the direction of the Supreme Court in *Chandramohan vs State of Uttar Pradesh* in which certain appointments of District Judges in the state of Uttar Pradesh were declared void by the Supreme Court. A new article 233A was added and the appointments made by the Governor were validated
21. *The Constitution (Twenty-first Amendment) Act, 1967* . By this amendment, Sindhi language was included in the Eighth Schedule
22. *The Constitution (Twenty-second Amendment) Act, 1969* . This act was enacted to facilitate the formation of a new autonomous state of Meghalaya within the State of Assam
23. *The Constitution (Twenty-third Amendment) Act, 1969* : Article 334 was amended so as to extend the safeguards in respect of reservation of seats in Parliament and State Legislatures for the Scheduled Castes and the Scheduled Tribes as well for the Anglo-Indians for a further period of ten years
24. *The Constitution (Twenty-fourth Amendment) Act, 1971* : This amendment was passed in the context of a situation that emerged with the verdict in *Golaknath's case* by the Supreme Court. Accordingly, this Act amended article 13 and article 368 to remove all doubts regarding the power of Parliament to amend the Constitution including the Fundamental Rights
25. *The Constitution (Twenty-fifth Amendment) Act, 1971* . This amendment further amended article 31 in the wake of the *Bank Nationalisation case*. The Word 'amount' was substituted in place of 'compensation' in the light of the judicial interpretation of the word 'compensation' meaning "adequate compensation"
26. *The Constitution (Twenty-sixth Amendment) Act, 1971* : By this amendment, the privy purses and privileges of the former rulers of Indian States were abolished. This amendment was passed as a result of the Supreme Court's decision in *Madhav Rao's case*

27. *The Constitution (Twenty-seventh Amendment) Act, 1971* : This amendment Act was passed to provide for certain matters necessitated by the reorganisation of the North-Eastern States. A new article 239 B was inserted which enabled the promulgation of Ordinances by the administrators of certain territories.
28. *The Constitution (Twenty-eighth Amendment) Act, 1972* : The amendment was enacted to abolish the special privileges of the members of the Indian Civil Service in matters of leave, pension and rights as respect to disciplinary matters.
29. *The Constitution (Twenty-ninth Amendment) Act, 1972* : The Ninth Schedule to the Constitution was amended to include therein two Kerala Acts on Land Reforms.
30. *The Constitution (Thirtieth Amendment) Act, 1972* : The purpose of the amendment was to amend article 133 in order to do away with the valuation test of Rs 20,000 as fixed therein, and to provide instead for an appeal to the Supreme Court in civil proceedings only on a certificate issued by the High Court that the case involves a substantial question of law of general importance and that in the opinion of the High Court, the question needs to be decided by the Supreme Court.
31. *The Constitution (Thirty-first Amendment) Act, 1973* : This Act *inter alia* raises the upper limit for the representation of the States in the Lok Sabha from 500 to 525 and reducing the upper limit for the representation of the union territories from 25 members to 20 members.
32. *The Constitution (Thirty-second Amendment) Act, 1973* : This Act provided the necessary constitutional authority for giving effect to the provision of equal opportunities to different areas of the State of Andhra Pradesh and for the constitution of an Administrative Tribunal with jurisdiction to deal with grievances relating to public services. It also empowered the Parliament to legislate for the establishment of a Central University in that State.
33. *The Constitution (Thirty-third Amendment) Act, 1974* : By this amendment, articles 101 and 190 were amended in order to streamline the procedure for resignation by Members of Parliament and State Legislatures.
34. *The Constitution (Thirty-fourth Amendment) Act, 1974* : By this Act, twenty more land tenure and land reform laws enacted by the various State Legislatures were included in the Ninth Schedule.

35. *The Constitution (Third-fifth Amendment) Act, 1974* : By this Act, a new article 2A was added thereby conferring on Sikkim the status of an associate State of the Indian Union. Consequent amendments were made to articles 80 and 81. A new Schedule i.e. Tenth Schedule, was added laying down the terms and conditions of association of Sikkim with the Union.
36. *The Constitution (Thirty-sixth Amendment) Act, 1975* : This was enacted to make Sikkim a full-fledged State of the Indian Union and to include it in the First Schedule to the Constitution and to allot to Sikkim one seat each in the Council of States and in the House of the People. Article 2A and the Tenth Schedule inserted by the Constitution (Thirty-fifth Amendment) Act were omitted and articles 80 and 81 were suitably amended.
37. *The Constitution (Thiry seventh Amendment) Act, 1975* By this Act, the Union Territory of Arunachal Pradesh was provided with a Legislative Assembly. Article 240 of the Constitution was also amended to provide that as in the case of other Union Territories with legislatures, the power of President to make regulations for the Union Territory of Arunachal Pradesh may be exercised only when the assembly is either dissolved or its functions remain suspended.
38. *The Constitution (Thirty-eighth Amendment) Act, 1975* This Act amended articles 123, 213, 352 of the Constitution to provide that the satisfaction of the President to issue ordinance or declare emergency and Governor's 'satisfaction' to issue ordinance made nonjusticiable.
39. *The Constitution (Thirty-ninth Amendment) Act, 1975* . This act took away the disputes relating to the election of the President, Vice President, Prime Minister and Union Speaker from the jurisdiction of the High Courts and Supreme Court and placed under a 'Forum'. It also incorporated more laws into the IX Schedule.
40. *The Constitution (Fortieth Amendment) Act, 1976* : It provided for incorporation of more laws relating to Land Reforms into IX Schedule ; ceiling on property , forfeiture of smugglars' , prevention of publication of objectionable matter ; and extension of Centre's authority over territorial waters and continental shelf.
41. *The Constitution (Forty-first Amendment) Act, 1976* . It enhanced the retirement age of the Chairman and members of the State Public Service Commissions from 60 to 62 years.

42. *The Constitution (Forty-second Amendment) Act, 1976* : It made so many sweeping changes and fundamental alterations in the constitutional structure that it was aptly described as a 'mini constitution' on the main document (i) The words 'Secular' and 'Socialist' were added into the Preamble and a new chapter on "Fundamental Duties" was added to the Constitution (ii) Parliament's power to amend all provisions of the Constitution was placed beyond doubt by excluding amendments (duly enacted in accordance with the procedure prescribed in the revised Article 368) from judicial scrutiny. (iii) The primacy of Directive Principles of State Policy over Fundamental Rights was ensured by providing that Articles 14 to 19 and 31 shall no longer be used to block legislation aiming at their implementation (iv) The 'Constitutional' position of the President of India was placed beyond doubt by making it obligatory for him to act on the advice of the Council of Ministers (v) The federal balance was somehow tilted towards the union by transferring education to the Concurrent List. (vi) Restrictions were placed on the exercise of judicial review by High Courts. It was laid down that the Supreme Court alone would be entitled to examine the constitutional validity of Union laws and that the corresponding competence of High Courts would be limited to laws made by State Legislatures. It was provided further that a constitution bench would consist of a minimum of five judges in the case of a High Court (or all the Judges if a High Court consisted of less than 5 Judges) and that decision would be made by two-thirds majority of the bench concerned. The jurisdiction of High Courts under Article 226 was further curtailed by debarring them from issuing writs for any other purpose (vii) Provision was made for establishment of Administrative Tribunals, thus further curbing the sphere of normal judicial authority. (viii) 'Anti-national' activities were defined and Parliament was authorised to prescribe penalties for such activities by Art. 31D. (ix) Certain subjects were transferred from the State List to the Concurrent List
43. *The Constitution (Forty-third Amendment) Act, 1977* : It deleted Art. 31D. States were deprived of the power to define anti-national organisation and curb its activities. The powers of the Supreme Court and High Courts were substantially restored.
44. *The Constitution (Forty-fourth Amendment) Act, 1978* : It gave back Courts of law their powers which were taken away by the forty-second Constitutional Amendment Act. Term of the Lok Sabha and State Legislatures was again fixed at 5 years. It had earlier been raised to 6 years. The President was bound by the advice of the Council of Ministers, yet he could return

a Bill sent to him, at the most once, for the reconsideration of the Council. The right to property, which was hitherto a Fundamental Rights and which had created many problems, was removed from the list of Fundamental Rights and was made only a legal rights. It was provided that all disputes arising out of the election of the President and Vice-President should be decided by the Supreme Court. It was also provided that no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceeding of any House of Parliament or legislature. It was also provided that the Fundamental Rights would not affect the right of minorities to establish and administer educational institutional of their choice. Article 352 of the Constitution was amended to provide "armed rebellion" as one of the circumstances for the declaration of emergency. Internal disturbance not amounting to armed rebellion would not be a ground for the issuance of a Proclamation. The right to personal liberty as contained in articles 21 and 22 was further strengthened by the provision that a law for preventive detention cannot authorise, in any case, detention for a longer period than two months unless an Advisory Board has reported that there is sufficient cause for such detention. The additional safeguard were also been provided by the requirement that the Chairman of an Advisory Board shall be a serving Judge of the appropriate High Court and that the Board shall be constituted in accordance with the recommendations of the Chief Justice of the High Court.

With a view to avoiding delays, articles 132, 133 and 134 were amended and a new article 134 A was inserted to provide that a High Court should consider the question of granting a certificate for appeal to Supreme Court immediately after the delivery of the Judgement, decree, final order of sentence concerned on the basis of an oral application by party or, if the High Court deems fit so to do, on its own. The other amendments made by the Act are mainly for removing or correcting the distortions which came into the Constitution by reason of the amendments initiated during the period of internal emergency.

45. *The Constitution (Forty-fifth Amendment) Act, 1980* : This was passed to extend safeguards in respect of seats in Parliament and State Assemblies for the Scheduled Castes, the Scheduled Tribes as well as for the Anglo-Indians for a further period of ten years.
46. *The Constitution (Forty-sixth Amendment) Act, 1982* : Article 269 was amended so that the tax levied on the consignment of goods in the course of inter-state trade or commerce shall be

assigned to the states. This article was also amended to enable Parliament to formulate by law principles for determining when a consignment of goods takes place in the course of inter-state trade or commerce. A new entry 92B was also inserted in the Union List to enable the levy of tax on the consignment of goods where such consignment takes in the course of inter-state trade or commerce.

Clause (3) of article 268 was amended to enable Parliament to specify, by law, restrictions and conditions in regard to the system of levy, rates and other incidence of tax on the transfer of goods involved in the execution of works contract, on the delivery of goods on hire purchase or any system of payment by instalments, etc.

Article 366 was also suitably amended to insert a definition of "tax on the sale or purchase of goods" to include transfer for consideration of controlled commodities, transfer of property in goods involved in the execution of a works contract, delivery of goods on hire purchase of any system of payment by instalments, etc.

47. *The Constitution (Forty-seventh Amendment) Act, 1984* This amendment is intended to provide for the inclusion of certain land reforms Acts in the Ninth Schedule to the Constitution with a view to obviating the scope of litigation hampering the implementation of those acts
48. *The Constitution (Forty-eighth Amendment) Act, 1984* The proclamation issued by the President under article 356 of the constitution with respect to the State of Punjab cannot be continued in force for more than one year unless the special conditions mentioned in clause (5) of the said article are satisfied. As it is felt that the continued force of the said Proclamation is necessary, therefore, the present amendment has been effected so as to make the conditions mentioned in clause (5) of article 356 inapplicable in the instant case
49. *The Constitution (Forty-ninth Amendment) Act, 1984* : The Government of Tripura recommended that the provisions of the Sixth Schedule to the Constitution may be made applicable to the tribal areas of that state. The amendment involved in this Act is intended to give a constitutional security to the autonomous District Council functioning in the states
50. *The Constitution (Fiftieth Amendment) Act, 1984* . By Article 33 of the Constitution, Parliament is empowered to enact laws determining to what extent any of the rights conferred by Part

III of the Constitution shall, in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order, be restricted or abrogated so to ensure the proper discharge of their duties and the maintenance of discipline among them.

It is proposed to amend article 33 so as to bring within its ambit :

- (i) the members of the Force charged with the protection of property belonging to, or in the charge of possessing, of the State , or
- (ii) persons employed in any bureau or other organisation established by the State for purpose of intelligence or counter intelligence ; or
- (iii) persons employed, in or in connection with, the telecommunication system set up for the purposes of any Force, bureau or organisation Experience has revealed that the need for ensuring proper discharge of their duties and the maintenance of discipline among them is of paramount importance in the national interest

51. *The Constitution (Fifty-first Amendment) Act, 1984* Article 330 has been amended by this Act for providing reservation of seats for the scheduled tribes in Meghalaya, Nagaland, Arunachal Pradesh and Mizoram in the Parliament and Article 332 has been amended to provide similar reservation in the legislative assemblies of Nagaland and Meghalaya to meet the aspirations of the local tribal population
52. *The Constitution (Fifty-second Amendment) Act, 1985 : Amends the Constitution to provide that a member of Parliament or a State Legislature who defects or is expelled from the Party which set him up as a candidate in the election or if an independent member of the House joins a political party after expiry of six months from the date on which he takes seat in the House shall be disqualified to remain a member of the House* The act also makes suitable provisions with respect to splits in, and merger of political parties
53. *The Constitution (Fifty-third Amendment) Act, 1966* : This has been enacted to give effect of the Memorandum of Settlement of Mizoram which was signed by the Government of India and the Government of Mizoram with the Mizoram National Front on June 30, 1986. For this purpose, a new article 371G has been inserted in the Constitution *inter alia* preventive application of any Act of Parliament in the State of Mizoram in respect of religious or special practices of the Mizos, Mizos'

Customary law and procedure. Administration of civil and criminal practice involving decisions according to Mizos' Customary law ownership and transfer of land, unless a resolution is passed in the Legislative Assembly to that effect. This however, will not apply to any Central Act already in force in the State of Mizoram before the commencement of the amendment. The new article also provides that the Legislative Assembly of Mizoram shall consist of not less than forty members.

54. *The Constitution (Fifty-fourth Amendment) Act, 1986* : This Act amends Articles 125 and 221 of the Constitution in order to insert enabling provisions for future changes in the salaries of judges without the need for Constitutional amendment, i.e., by ordinary Parliamentary laws. The Act has also amended the Second Schedule of the Constitution. As a result, the salaries of these Judges may hereafter be increased from time to time by ordinary Parliamentary laws.
55. *The Constitution (Fifty-fifth Amendment) Act, 1986* : This Act was meant to make necessary changes in the VI Schedule of the Constitution after Arunachal Pradesh was made the 4th State of the Indian Union by a Parliamentary law. The special provisions relating to Arunachal Pradesh, incorporated by this Amendment in the VI Schedule provide reserve powers to the Governor of the State owing to the special geographical and strategic location of the State vis-a-vis China. The Governor of the State retains the special powers regarding security and law and order according to this Amendment. In this sense, Arunachal Pradesh has become a State with reduced status, compared to other States of the Indian Union.
56. *The Constitution (Fifty-sixth Amendment) Act, 1987* : This Act deals with only one provision relating to the State of Goa which was actually created through a Parliamentary law. The Special provision is that the Legislative Assembly shall consist of not less than 30 members.
57. *The Constitution (Fifty-seventh Amendment) Act, 1987* : This Act deals with the amendment of Article 332, thereby introducing special provisions regarding the number of seats in the Legislative Assemblies, of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland. In each of these States, a fixed number of seats prescribed in proportion to the population of the Scheduled Tribes to the total population shall be reserved for this Schedule Tribes.
58. *The Constitution (Fifty-Eighth Amendment) Act, 1987* : According to this amendment a provision is made for the publication

of authoritative text of the Constitution in Hindi. A new article 394A has been inserted for this purpose.

59. *The Constitution (Fifty-Ninth Amendment) Act, 1988* : The Constitutional amendment was necessitated by the peculiar circumstances prevailing in Punjab at the time. The President's rule that had been imposed on 11 May 1987, had been extended up to the maximum permissible level of one year, under Article 356 of the Constitution. The Government did not desire to conduct elections and hence decided to provide for further extension of President's rule in Punjab. Hence this Amendment. The main provision of the Amendment Act was that the limitation of one-year period mentioned in Art. 356 will not apply to Punjab. The President's rule should continue for the maximum permissible period of three years, viz. up to 10th May 1990. However there was also an amendment of Art. 352. This was effected through a new Article 359A which applies exclusively to the State of Punjab. According to this new Article, emergency can be declared in Punjab on the ground of 'internal disturbance'. Besides the extraordinary protection of the fundamental right contained in Article 20 at the time of emergency was taken away. It is worth noting that this Amendment has been repealed *in toto* through the 63rd Amendment of 1989.
60. *The Constitution (Sixtieth Amendment) Act, 1988* : This is a minor amendment increasing the amount of professional tax that can be levied by the State legislatures for the benefit of the State or local bodies. The amount has been increased from Rs. 250 to Rs. 2,500 per annum.
61. *The Constitution (Sixty-first Amendment) Act, 1988* : This Act amended Article 326 thereby reducing the age limit for the voters in India from 21 to 18 years. The amendment was assented to by the President after obtaining the ratification by more than one-half of the number of States in India.
62. *The Constitution (Sixty-Second Amendment) Act, 1989* : This minor Act is of a routine nature and is meant to extend the safeguard of reservation of seats in the Parliament and State Assemblies for the Scheduled Castes and Scheduled Tribes and the Anglo-Indians for a further period of ten years since 1990. This act has been ratified by more than one-half of the number of States in India.
63. *The Constitution (Sixty-fourth Amendment) Act, 1989* : This is an important Act although the content is very simple. This Act was near-unanimously adopted in the Parliament. It is repealed *in toto* the changes introduced by the 59th Amendment.

64. *The Constitution (Sixty-fourth Amendment) Act, 1990* : This Act amended Article 356 of the Indian Constitution to allow for continuance of the President's rule in Punjab for a further period of six months from the date on which it was to expire viz. May 11, 1990.
65. *The Constitution (Sixty-fifth Amendment) Act, 1990* : This Bill introduced as the 66th Constitutional Amendment Bill was passed on May 30, 1990 and was renumbered as the 65th Amendment Act. For the first time this Act brings within the purview of the IX Schedule all land reform bills. Earlier certain land reform Acts of the Centre and the States and their Regulations had been incorporated in the IX Schedule by naming them and numbering them. This Amendment covers all land reform laws, thereby making them non-justiciable.
66. *The Constitution (Sixty-sixth Amendment) Act, 1990* : The 68th Constitution Amendment Bill was renumbered as the 66th Amendment Act after it was passed amid the uproar in the Lok Sabha on the 30th May, 1990. The Act amends Article 338 in order to establish a National Commission of Scheduled Caste and Scheduled Tribes, which will consist of a Chairman, Vice-Chairperson and three other members. The amendment has been effected since it was considered that a more effective arrangement than a single special officer was required to safeguard the interests of the Scheduled Castes and Scheduled Tribes.
67. *The Constitution (Seventy-fourth) Amendment Bill, 1991* : It provides for a 70-member Assembly and 7-member Council of Ministers for Delhi.
68. *The Constitution (Seventy-sixth) Amendment Bill, 1990* : It provided for extension of President's rule in Punjab for six more months beginning from Nov. 11 1991. The first proclamation for imposing the President's rule in the state was issued in May 1986. This new extension stretched the President's Rule there up to four years.

11

Solved Papers

I.A.S.—1979

Q 1. What is the basic structure of the Constitution of India ? Briefly review the important amendments to the Constitution since its adoption by the Constituent Assembly. Specify any particular amendments which were later repealed and the reasons thereof. *(About 500 words)*

Ans Basic Structure of Indian Constitution.

The term 'basic structure' of the Constitution of India became significant with the Supreme Court ruling in the Kesavananda Bharati Case of 1973. The term was not defined by the Supreme Court. Some of the essential features of the Constitution were identified by the Supreme Court in the Minerva Mills case judgement. We may say that the basic structure of the Constitution of India comprises those features of the constitution which cannot be changed without pulling down the edifice of the present Indian Polity. These are (i) sovereign democratic republic ; (ii) limited amending power of the Parliament ; (iii) the balance and harmony between the Fundamental Rights and the Directive Principles. etc.

Important Amendments

Some of the important amendments are given below :

(1) **First Amendment (1951)** : It provided for the imposition of reasonable restrictions on speech in the interest of the security of India, friendly relations with foreign states, etc.

(2) **Seventh Amendment (1956)** : It was concerned with the reorganisation of states along the linguistic lines.

(3) **Twenty Fourth Amendment (1971)** : It amended Article 368 affirming the constituent power of the Parliament to amend any provision of the constitution.

(4) **Thirty Eighth Amendment (1975)** : It made non-justiciable the declaration of Emergency and promulgation of ordinances by the President and Governors according to their jurisdiction.

(5) **Forty-Second Amendment (1976)** : It was the most comprehensive amendment made in the Constitution so far. Its important provisions were :

- (i) introduction of two adjectives, 'Socialist' and 'Secular' to redefine our polity in the Preamble ,
- (ii) primacy of Directive Principles over the Fundamental Rights ,
- (iii) provision of certain Fundamental Duties under 10 heads in Part IV (A) ,
- (iv) extension of duration of Lok Sabha from 5 to 6 years ,
- (v) restriction on the jurisdiction of the Supreme Court and the High Courts to decide on the constitutional validity of the Central and State Laws by prescribing 2/3 majority ;
- (vi) placement of all constitutional amendments beyond judicial scrutiny ;
- (vii) declaring of amending power of the Parliament without any limitation
- (viii) provision of administrative tribunals for speedy and substantial justice ; and
- (ix) making it obligatory for the President to accept the advice of the Council of Ministers

(6) Forty-third Amendment (1978) · It restored to the High Courts and the Supreme Court their jurisdiction to consider the constitutional validity of any Central or State Law.

(7) Forty-fourth Amendment (1978) Its important provisions are .

- (i) internal emergency to be declared only for threatened or actual 'armed rebellion' ;
- (ii) fundamental right to life and liberty could not be suspended even during emergency ,
- (iii) deletion of the right to property from the Fundamental Rights ,
- (iv) emergency to be proclaimed only on the written advice tendered to the President by the Cabinet ; and
- (v) proclamation of emergency would have to be approved by both Houses of Parliament by the same majority which is necessary to amend constitution and such approval would have to be given within one month. Any such proclamation would be in force for six months

(8) Fifty-sixth Amendment (1987) : It makes Goa 25th State of India

(9) Fifty-ninth Amendment It provided for the promulgation of Emergency in Punjab on account of internal disturbances and extension of President's rule up to three years

(10) Sixty-first Amendment (1989) It provides for lowering of voting age from 21 to 18 years

(11) Sixty-second Amendment (1989) It extends reservation of seats in Lok Sabha and State Assemblies for Scheduled Castes and Scheduled Tribes and representation of Anglo-Indians by nomination for another 10 years up to 2000 A D.

(12) Sixty-third Amendment (1989) It repealed 59th Constitutional amendment, which empowered the Government to impose emergency in the Punjab

(13) Sixty-sixth Amendment (1990) : It amended article 338 in order to establish a National Commission for Scheduled Castes and Scheduled Tribes, which will consist of a Chairman, Vice-Chairman and three other members

(14) Seventy-Fourth Amendment (1991) It provides for a 70-member Assembly and 7-member Council of Ministers for Delhi

Amendment; which were later repealed

Some of the amendments introduced earlier have been repealed through subsequent amendments. This process started with the 43rd Amendment Act of 1977, which removed the restrictions imposed on the Supreme Court and the High Court jurisdiction with regard to the constitutional validity of laws and deleted the provisions regarding anti-national associations and activities. These restrictions and the provisions were introduced through the 42nd Amendment during emergency. When the Janata Party came to power at the Centre, it wanted to undo most of the constitutional changes introduced during the Emergency. The process was continued through the 44th Amendment Act also.

Similarly when Janata Dal came to power at the Centre in 1989 it repealed 59th amendment through the 63rd Amendment, as the former empowered the Government to impose internal emergency in the Punjab

Q 2 What is the scheme of division of powers between the Centre and the States under the Constitution of India? Discuss whether grant of greater autonomy to the states would be in the interest of strengthening the integrity and promoting the economic development of the country *(About 500 words)*

Ans According to the Indian Constitution, there is a definite division of powers, which envisages certain legislative, administrative and financial relations between the Union and the States. The VII Schedule of the Constitution contains three Lists of subjects, the Union

List, the State List and the Concurrent List On any subject in the Union List, only the Parliament is empowered to enact laws. Under normal circumstances the State Legislatures alone are competent to enact laws on items in the State List. On any matter listed in the Concurrent List, both the Parliament and the State Legislatures are empowered to enact laws. But in the case of a conflict between a State Law and a Union Law, normally the provisions of the Union Law will prevail. On any other matter, not found in the three Lists, the Parliament will have the exclusive jurisdiction to legislate.

Under certain circumstances, the Parliament is empowered to enact laws on State subjects without the concurrence of the State Legislatures. During an emergency proclaimed under Art 352 or in order to implement any treaty or agreement made with foreign countries, the Parliament may enact on any state subject. Besides, if the Council of States passes a resolution, by a majority of 2/3 of the members present and voting, to the effect that the Parliament should enact laws on a particular subject in the State List in national interest, the Parliament may do so.

The Executive power of the Union will extend to matters on which the Parliament is empowered to enact laws. The executive power of the State Government will extend to matters on which the State Legislature is empowered to enact laws. However, the executive power of the State should not be in conflict with the Union executive power or Union laws. Besides, the Union may issue directives to the States on certain matters and the States are expected to carry them out.

There is a clear division of financial powers also. Certain duties and taxes are reserved for the States. But the major sources of revenue are shared between the Union and the States though they are under the effective control of the Central Government.

Grant of Greater Autonomy to the States

The term 'autonomy' has to be understood properly. Under our Constitution, there is division of powers between the Union and the States. But it is doubtful whether the States have 'autonomy' in any matter. Autonomy of a unit implies that the unit will be totally independent of the Central control in the exercise of power on the subjects which fall within the purview of autonomy. In India, the Centre has an effective say on all matters in the State List, including agriculture, health etc. So the given question really relates to granting more powers to the States. In recent years many States have been demanding more powers, particularly financial powers. Their basic argument is that the State Governments are saddled with a lot of responsibilities without adequate powers and financial resources. That there is some substance in the argument is proved by the fact that the successive Finance Commissions have

recommended transfer of more amounts from the Central pool to the States.

Let us analyse the issue from two angles—integrity of the nation and economic development. It is not clear how the integrity will be adversely affected by granting more powers to the States, unless subjects of vital security interest are transferred to the States. The integrity of the nation will be affected only when there is continuous confrontation between the Centre and the States or among the certain States. It is likely that chances of such confrontation will increase if States are given more powers. It is also possible that with more powers the States will concentrate their attention on development programmes without frequently running to the Centre for financial help and picking up quarrel on the ground of inadequate resources. For promotion of economic development the present scheme of division of power is, perhaps, the best. The Centre controls the purse and the States implement the programmes with the Central aid. Though this may hamper the progress in certain States, the Centre is able to supervise the implementation of the programmes and to remove regional imbalances in the development.

Q. 3 Write short notes not exceeding 150 words on any two of the following topics *(About 150 words each)*

- Directive principles of State Policy
- Problem of political defection and possible remedies
- Role of judiciary in India
- Functions of the Election Commission

Ans (a) Directive Principles of State Policy: Part IV of the Indian Constitution discusses the Directive Principles of State Policy, which are fundamental in the governance of the country and are expected to be implemented by the State through legislation and executive action. These principles are non-justiciable. However harmony between the Directive Principles and the Fundamental Rights is an essential feature of the Constitution. These principles may broadly be classified as economic ideas, political changes, cultural matters, educational directives, health aspects, social welfare and social service measures, norm of international relations. The Principles are mixture of Gandhian ideas, socialistic measures and welfare norms.

Please also refer to page 36.

(b) Political Defection The phenomenon of a legislator elected as a member of a political party quitting that party without resigning his seat is called political defection. It has assumed alarming proportions in India in recent years. Causes of defection are many. First and foremost, major political parties lack ideology, firm policies and definite programmes. Secondly, very few political leaders are committed firmly to their parties. The lure of money, office and other benefits prove too much for many feeble-minded

legislators and leaders to resist The serious effects of political defection are seen now-a-days. Continuous threat to the stability of the government of the day and erosion of political morality invariably follow the large-scale defections. People begin to lose confidence in the political system.

In order to check defections, Parliament passed the Anti-Defection Act in 1985. It provides that any Member of Parliament or State Legislature will lose his membership if he

- (i) voluntarily gives up the membership of the party on whose ticket he is elected, or
- (ii) votes or abstains from voting in the House contrary to any directive issued by the political party and such voting or absenteeism is not condoned by party within 15 days

This law does not apply

- (a) in case of a split in which at least 1/3rd members of a legislature party are involved
- (b) to a situation of 'merger', when at least 2/3 members of a legislative party merge themselves with another political party ;
- (c) to a person who resigns membership of his party after being elected as presiding officer of the House and he re-joins the party after laying down that office

(c) **Role of judiciary :** The basic role of the judiciary is to dispense justice. As one of the three wings of the State, the judiciary is expected to function so as to instil confidence in the citizens regarding its independence and fairness. Since in India the Constitution is supreme, the judiciary has the special role of upholding the Constitution. The superior courts—Supreme Court and High Courts—using their power of judicial review are expected to interpret the Constitution and ensure that laws and regulations, which are *ultra vires* of the Constitution, are struck down. Enforcement of Fundamental Rights is an important role of the higher judiciary in India. All the courts, including subordinate courts, perform the function of interpreting and enforcing ordinary laws. The Supreme Court has the special role of advising the President of India or respond to Presidential references. In order to perform its role satisfactorily, the judiciary is vested with sufficient powers and jurisdiction.

(d) **Function of the Election Commission:** The Election Commission in India is a constitutional body charged with very important functions. All elections to the Parliament, the state legislatures and to the offices of the President and Vice-

President are to be conducted by the Commission. For this purpose, the power of superintendence, direction and control relating to the preparation of the electoral rolls and all powers regarding the conduct of these elections are vested in the Commission. In addition, through a Parliamentary law, the Commission performs the functions of the delimitation of constituencies for all these elections. The Commission announces election schedules, arranges for conduct of elections and ensures that proper conditions for fair elections prevail. Questions of disqualification of elected candidates or of members of Parliament and of State Legislatures are referred to the Commission by the President or the Governor and its opinion is binding on the latter. Yet the machinery at its disposal is not ideal for fully independent functioning of the Commission.

Q 4. Answer any three of the following

(a) What categories of persons are nominated by the President of India to the Rajya Sabha?

(b) Mention the number of States and Union Territories of India.

(c) To what authority is the Union Council of Ministers collectively responsible?

(d) What can be the maximum duration of an ordinance promulgated by the State Governor during the recess of the State Legislature?

Ans (a) 12 persons are nominated by the President to the Rajya Sabha for their special knowledge of art, literature, science and social services. (b) States —29; Union Territories—7. (c) Lok Sabha (d) 6 weeks.

I.A.S.—1980

Q 5. What are the respective roles of the political leadership and permanent Civil Services in the governance of India? What steps, if any, in your opinion, have to be taken to secure better appreciation of the functions of the civil services and ensure their proper and efficient functioning? (About 500 words)

Ans Civil Services

The term 'civil services' connotes the body of non-military officials responsible for the administration of the country. Finer says, "civil service is a professional body of officials, permanent, paid and skilled".

The Role of Political Leadership

The overall responsibility for the administration rests with the political leadership, *i.e.*, ministers, who are laymen and mainly dependent on the civil servants, who are the experts. To get the best out of the civil servants, the ministers must be tactful and sympathetic towards them

Role of Civil Servants

The civil servants should do their utmost to make proposals which reflect the political philosophy and programme of the party in power. The civil servant must render sincere advice to his minister and must not feel hurt if his advice is not accepted. Once the policy has been finalised, he must faithfully execute it. A civil servant must avoid politics, maintain integrity, cultivate courtesy and good manners. He should not clamour for any credits

Steps for better appreciation of the functions of the Civil Services

- (i) Study of public administration and periodical seminars for civil servants in order to educate them on the role of the bureaucracy
- (ii) Educating Ministers and legislators on the relative positions and roles of political leadership and the permanent civil services through a few academic lectures
- (iii) Informal education of the people through the media, explaining to them the rights of the people and duties of civil servants as well as the problems and difficulties faced by the bureaucracy

Steps to ensure proper and efficient functioning of Civil Services

- (i) Education of the civil servants on their proper role and functions through refresher courses (in-service training), attitude training
- (ii) Strong organisation of different Civil services may periodically discuss their problems and frictions with political masters among themselves and may, later, pursue them with the government
- (iii) Setting up a high power panel or permanent machinery to look into the grievances of civil servants against their political masters
- (iv) Objective standards for evaluation of the performance of civil servants should be evolved and incentives for exemplary performance should be introduced
- (v) Effective supervision of the civil servants by their superiors, legislators and Ministers in different forms

Q 6 Write short notes on any two of the following;
(about 150 words on each)

- (a) Finance Commission
- (b) Procedure relating to Money Bills to be passed by Parliament
- (c) Fundamental Duties of Indian Citizens.

Ans (a) Finance Commission : Under article of 280 of the constitution, Finance Commission in India is to be appointed by the President every 5 years. Thus it is one of the Constitutional Commissions in India. The Commission shall consist of the Chairman and four other members. The qualification for membership of the Commission may be decided by law by Parliament. The duty of the Commission is to make recommendations to the President regarding (i) distribution of net proceeds of taxes between the Union and the States, (ii) the principles governing grants-in-aid and (c) any other matter of financial nature referred to it by the President.

The reports of the Commission are to be placed before the Parliament. The Union Government generally accepts the recommendations of the Commission. The formulae and norms recommended by each Commission and accepted by the Government are applicable for a period of 5 years. The Finance Commission is an important means of regulating financial relations between the Centre and the States.

(b) Procedure relating to Money Bills to be passed by the Parliament : A Money Bill is a bill, which deals with one or more of the following matters only : (i) tax matters ; (ii) public borrowings of Union Government, (iii) Consolidated Fund of India and Contingency Fund of India ; (iv) Charged Expenditure of the Union. The Speaker has to certify a Money Bill and his decision is final.

A Money Bill can be introduced only in the Lok Sabha and that too with the recommendation of the President. After the Bill is passed in the Lok Sabha, it shall be transmitted to the Rajya Sabha for recommendations. The latter House may make its recommendations within 14 days. The Lok Sabha may either accept or reject the recommendations of the Rajya Sabha and may pass the Bill in the manner it likes. Then the Bill shall be deemed to have been passed by both Houses. Thus in the passing of a Money Bill, the Rajya Sabha plays, a secondary role.

(c) Fundamental Duties : A responsible citizen of any country is expected to perform several duties. In the Indian context, some of these duties are listed in Part IV A of the Indian Constitution.

which was inserted by the 42nd Amendment Act Grouped under 10 heads, the duties are :

- (i) to respect the constitution, the national flag and the national anthem ;
- (ii) to follow the ideals of freedom struggle ;
- (iii) to uphold the sovereignty, unity and integrity of India ;
- (iv) to defend the country and to do national service ;
- (v) to promote communal harmony and dignity of women ;
- (vi) to preserve our rich cultural heritage ;
- (vii) to protect and improve natural environment and wild life ,
- (viii) to develop scientific temper, humanism and spirit of inquiry and reform ,
- (ix) to safeguard public properly and abjure violence ,
- (x) to strive towards excellence

Fundamental duties are enforceable only to the extent provided by separate relevant laws. These duties may be considered as the counter-part of Directive Principles or Fundamental Rights. However, the list is not exhaustive as has been pointed out by some constitutional experts

Q 7 What is floor-crossing ? Have Government Legislated on the subject of floor-crossing ?

Ans. 'Floor-crossing' means changing of party affiliation by a legislator. It is also known as political defection. With the passage of Anti-Defection Act in 1985, the problem has been greatly reduced.

I.A.S.—1981

Q 8 Analyse the causes of controversy in India in recent years, in regard to Centre-State relations. What are the specific areas of discord ? Consider the main issues and offer your comments and suggestions (About 400 words)

Ans Centre-State Relations . The Constitution outlines in detail the Centre State relations to be followed in India. The intention of the Constitution makers was to establish a co-operative federalism. The pronounced central bias in Union-State relations was also intended by the framers of the constitution.

Cause of Controversy : Controversy in the exercise of powers vested in the Union Government and State Governments is bound to be there in any federal set-up. According to the Indian Constitution, any conflict between the Union and the States is to be resolved in favour of the Centre. This has made the States feel helpless

and humiliated. Since 1977, several State Governments are under the political parties other than the ruling party at the Centre. Clashes are inevitable between governments under different parties. The way the Central Government has exercised its discretionary powers and flouted constitutional conventions has further antagonised some State Governments. The tendency of Prime Ministers during the last two decades to assume the role of supreme leaders and to decide the destinies of the State Governments over the heads of the local politicians and legislators has further aggravated the situation. The decline of political morality and the nefarious role played by some Governors has also caused Centre-State controversies.

Specific Areas of Discord (i) Financial matters, (ii) The role of the Governors and matters relating to appointment, removal and transfer of Governors, (iii) Maintenance of law and orders, (iv) The role of All-India Service Officers (v) Commissions of Inquiry (vi) Imposition of President's rule (vi) Location of Industries and Projects : (vii) Centre holding up Bills reserved for consideration of the President

Main Issues

(i) **Financial Matters** Since the finances at the disposal of the Centre and the States are quite limited, tussle is bound to arise there. The demand of States for increasing shares in the divisible pool is quite justified. The Centre should avoid discrimination among States based on political considerations in the distribution of grants-in-aid. Finance Commission should act as an intermediary for resolving the controversies in financial matters.

(ii) **Matters relating to Governor** Consultation with the State Governments in the appointment of Governors, as was the prevailing practice earlier, may be restored. The Governors acting as agents of the ruling party at the Centre, with political affinities are not desirable. There should be a code of conduct for Governors, but the efforts made in this direction have not succeeded.

(iii) **Clearance of States Bills and Projects** Many Opposition State Governments are sore over the fact that without indicating reasons, their Bills and Projects are kept pending. The impression may be removed by expeditious disposal in these cases.

Q 9 What is Parliamentary Democracy ? How does the Indian Parliament exercise control over the Union Executive ? Can the Parliament have any control over the State Executives ? Assess the role of the Standing Committees of the Parliament in the exercise of control

(About 400 words)

Ans. Parliamentary Democracy It is the form of democratic government in which the Parliament controls the Executive. The Executive is made responsible to the legislature by

requiring the ministry to command the confidence of the majority in the Lower House of the Parliament. The opposite of the Parliamentary form is the Presidential form in which a President, as the executive head, is not answerable to Parliament. The head of State in a Parliamentary democracy is titular. The real power is vested in the head of government.

Parliamentary Control over Executive. In India, the Parliament exercises control over the Union Executive. According to the Constitution, the Union Council of Ministers is responsible to the Lok Sabha. In effect this means that the Central Ministry or Prime Minister has to enjoy the majority support in Lok Sabha. When a Ministry is appointed, it is assumed that it has the necessary support of the Lok Sabha. Conventionally, the Ministry normally does not seek a vote of confidence through a resolution, unless it is specifically asked by the President to do so. However, negatively the responsibility of the Executive to the Parliament is ensured by providing that if Lok Sabha expresses its lack of confidence in the Ministry, it should resign or be dismissed by the President. The various means used for expressing lack of confidence of the House are passing a 'no confidence motion' after due notice, passing a censure or cut motion, defeat of the Government on issue of an adjournment motion, defeat of any Government-sponsored Bill etc. Ministry is not responsible to the Upper House.

Parliamentary Control over State Executive. The Indian Parliament does not have any direct control over the State executive since India has a federal set up with two distinct layers of government. In other words, the State Executive is responsible to the State Legislature. A body cannot be simultaneously responsible to two agencies. However, the State government should not come in conflict with the Parliament and hence it is provided that it should exercise its powers so as to comply with all Union Laws. For this purpose, the Union Executive may issue directives to the State Governments.

Role of the Standing Committees : Among the several means used by the Parliament to exercise control over the Union Executive, one is setting up of Standing Committees—several standing committees are meant to aid the House of Parliament in exercise of its control over the Government—in particular, the Estimates Committees, Public Accounts Committee, Public Undertakings Committees, Committee on Subordinate Legislation etc.

Q 10. Answer any two of the following :

(About 150 words each)

(a) Bring out the significance of the Fundamental Rights provided in the Constitution of India. The right to acquire, hold and dispose of property has ceased to be a Fundamental Right. Examine the purpose of the change involved.

(b) Why has there been reservation of seats for Scheduled Castes and Tribes in the legislatures and in public services? Has the purpose been achieved? Indicate recent developments.

(c) Describe briefly the legislative and executive powers of the President of India. Has there been any change in the past decade? Offer your Comments

Ans Significance of the Fundamental Rights : The Fundamental Rights provided in Part III of the Constitution have special significance since it is laid down that no wing of the State may enact or enforce laws contravening or abridging any fundamental right. The constitution-makers undoubtedly wanted to assign a special status to these rights. However, most of the rights are qualified by reasonable restrictions. Another salient feature is that the very enforcement of the rights in made a Fundamental Right. Constitutionally speaking, any right occurring to a person from outside Part III is less important as compared to these Fundamental Rights.

Right to Property : The rights regarding property have been deleted from Part III by the 44th Amendment Act, 1978 thereby nullifying the 'Fundamental Right' status of property rights. The Government decided that the frequent changes in Part III in the context of litigation could be avoided by deleting property right altogether from Part III. Now property right is only a statutory or legal right under Article 300A. However, in practice no substantial change has occurred in the extent or enforcement of property rights available in India.

(b) Reservation for the Scheduled Castes and the Tribes .

Reservation of seats for Scheduled Castes and Tribes has been provided because of historical and constitutional reasons and moral compulsion. These depressed classes, which had remained extremely backward owing to the pernicious caste system, had to be uplifted fast in a democratic polity. The pre independence constitutional arrangement also had provided for reservation on the basis of the population strength of these people. The Indian leaders felt the moral duty to ensure the progress of the down-trodden.

The purpose behind reservation was protective discrimination and upliftment through representation. This was achieved to an extent. But for reservation, the depressed people would not have adequate representation in the legislators and in public services. However, the mere presence of S.C. and S.T. legislators and officers has not led to the expected over-all upliftment of these communities.

Since the percentage of reservation is increasing by giving reservation to the backward classes as per Mandal Commission report, it is now the turn of the so-called upper classes to launch a counter-agitation and fight to preserve their rights. Thus we witness today caste wars and conflicts between Harijans and others in all parts of the country. Even the dacoits and other anti-social elements are being promoted to wipe out the rival castes and communities. And ironically, it is the "backward" classes, who suffer

(c) **Legislative Powers of the President** The President may issue ordinances which have the same effect as an Act of Parliament. The President has vast powers with regard to the functioning of the Parliament. The right to summon, prorogue and dissolve the Houses and power to assent or withhold assent to a Bill passed by the Parliament are vested in the President. The main change effected in the constitutional provisions in this regard is this. The satisfaction of the President regarding the urgency of the matter for an ordinance was made non-justiciable by the 38th Amendment, but this provision was repealed by the 44th Amendment.

Executive Powers of the President : President's executive power extends to all matters over which the Parliament has the power to enact laws. All Union executive power is vested in the President and shall be exercised by him either directly or through subordinate officers. This power includes the power to appoint important constitutional functionaries. The Supreme Command of the defence forces is vested in him.

Please also refer to page 43.

Q 11 Answer any three of the following in 1 or 2 sentences each

- (a) What is the purpose of having a concurrent list in the Constitution of India ?
- (b) What are the functions of the Attorney-General ?
- (c) Can a member of Parliament be the Minister of a State ?
- (d) How is the Vice-President of India Chosen ?
- (e) When is a member of Lok Sabha qualified to be appointed leader of the opposition ?

Ans (a) The *Concurrent List* is there in the Constitution in order to enable Central and State Governments to exercise concurrent jurisdiction on certain subjects. The Central Government and Parliament are expected to deal with general policy guidelines, leaving the details and implementation to the State Governments and legislatures.

(c) The functions of the *Attorney-General* are :

- (i) to advise the union government in legal matters
- (ii) to perform other legal duties, which may be assigned to him by the President ; and
- (iii) to discharge other functions conferred on him by the Constitution and laws.

(c) A Member of Parliament can become a Minister in a State, but he is expected to become a member of the State Legislature within six months. Therefore, he cannot continue as the Member of Parliament.

(d) The **Vice-President** of India is elected by an electoral college consisting of all members of Parliament in accordance with the system of proportional representation by means of a single transferable vote by secret ballot

(e) A Member of Lok Sabha is appointed the **Leader of Opposition**, when he is the leader of a legislative party or front having members, not less than one-tenth of the total membership of a House

I.A.S.—1982

Q 12 The phenomenon of political defection in India has assumed large proportions in recent years. Bring out the factors responsible for this phenomenon. Is it right to say that ban on defection will amount to suppression of freedom of thought and action ?
(About 250 words)

Ans Political Defection. It is the political phenomenon in which a legislator elected as a member of a political party, changes his party allegiance without resigning his seat

Factors Responsible. Among the several factors responsible for the growth of this phenomenon, the most important is erosion of political morality in the public life. Some MLA's and M P's are ever ready to change party loyalty for personal considerations including an attractive non official post and lure of money. However, the enabling circumstances in the form of political environment is equally important. Unstable government, coalition politics, dissidence, infighting, the high-handedness of party high commands etc., are also responsible for it. However with the passage of Anti-Defection Act 1985, individual defection has been greatly checked

Ban on Defection and Suppression of thought

Since the Indian Constitution, as originally enacted, did not take notice of party affiliation of legislators, an argument has been advanced that ban on defection will amount to curbing freedom of legislators. The question whether a legislator's voting in the legislature against the party's directive will amount to defection, is still open to discussion. Problems may arise if a legislator pleads for the right to 'conscience vote' on the ground that his best judgement requires him to take a stand different from that dictated by the party. Surely, any punishment of a legislator for non-conformity with the party's stand in the legislature will reduce the freedom of thought and action. But one can argue that since a legislator has been elected on the party ticket, it is expected of him to vote according to the party's directive

Q 13 (a) India is not a federation : but it has definite federal features. Elucidate

(b) Planning and federation make uneasy partners. the planning operations in India have led to erosion of federation. Discuss (About 250 words)

Ans. (a) Federal features in Indian Constitution India is not a federation, since the Indian constitution describes it as a Union of States. If the constitution-makers had wanted India to be a full-fledged federation, they could have stated so. However, it can't be denied that there are several federal features in our constitution. Two layers of government with clear division of powers, a supreme and reasonably rigid Constitution, and a Supreme Court to decide legal disputes between the Centre and the States, with the power of judicial review, are important federal characteristics. In fact, India was expected to function more or less as a federal set-up during normal times and a Unitary State during Emergency. The Central bias is pronounced in our Constitution but India may be better described as a quasi-federation or cooperative federation rather than a unitary state.

(b) **Planning and Federation :** Centralised planning does not fit normally into a federal polity. Even some communist countries having a federal set-up have found it difficult to operate centralised planning. The fault is not necessarily with planning or federalism. If planning is left entirely to the Provinces, planning and federation need not be uneasy partners. But planning in India is fully centralised, the role of States having been reduced to mere consultation and formal approval. A modern state with numerous welfare and development activities is mainly performing economic functions and formulating economic policies. In this context, central planning is bound to make the Units (States) powerless and helpless. Thus planning operations have surely led to erosion of federalism in India.

Q 14. Answer any two of the following :

(About 150 words each)

(a) Examine the relative roles of the Legislature, Judiciary and Executive in the functioning of the parliamentary system of Government of India. Is it a fact that the Executive has been tending to be more powerful over the years?

(b) The office of the President of India was designed on the British model. With this background, consider the modifications of the executive powers of the President by the 42nd Amendment 1976 to the Constitution of India. Comment on the changes.

(c) Differentiate between Fundamental Rights and Directive Principles. Do you think the latter have been adequately implemented? Give reasons for your views.

(d) What is meant by 'Sovereignty of Parliament'? Consider whether Indian Parliament is a sovereign body.

Ans (a) Role of Legislature, Judiciary and Executive

In the Parliamentary system of government as in India, the relative roles of the legislature, executive and judiciary are well defined. The legislature performs the role of enacting laws, including constitutional amendments, passing the budget and approving taxation proposals of the executive. The executive is expected to enforce and implement the laws even while carrying on the administration. However, the executive is responsible to the legislature. The judiciary performs its basic role of dispensing justice, by interpreting and applying the Constitution and laws in cases brought before them. All the wings of the State are expected to function according to the Constitution.

The executive in India, as elsewhere is becoming more and more powerful. Once the majority support in the legislature is ensured, the executive tends to treat the legislature as an instrument to get the necessary legislation for it to be passed. With regard to the judiciary, the executive has shown the tendency to use the power of appointment, promotion and transfer, to undermine the judicial independence.

(b) **Position of President.** Patterned on the British model, the President of India is expected to function as a constitutional head. The Constitution, as originally enacted stated that there shall be a Council of Ministers to aid and advise the President in the exercise of his functions. The courts, through numerous rulings, had interpreted this provision to clarify that the President was bound by the advice of the Council of Ministers. The 42nd Amendment made this constitutional position explicit by adding that the President shall, in the exercise of his functions, act in accordance with the advice of the Ministry. The 44th Amendment Act did not annul this change, but, by way of caution, added that the President may require the Council of Ministers to reconsider any advice tendered by it. After the reconsideration, the President is expected to act in accordance with the advice tendered. Some constitutional experts have held that certain critical situation may be created by the change made by the 42nd Amendment.

(c) **Difference between Fundamental Rights and Directive Principles :** (i) Fundamental Rights are basic civil rights available to citizens in a liberal democracy, while Directive Principles are fundamental principles that should be implemented by the State and are essential for the proper governance of the country. (ii) Fundamental Rights are justiciable, even directly in the forum of Supreme Court, whereas Directive Principles are non-justiciable. (iii) In the case of a clear conflict between the two, normally

Fundamental Rights will prevail, the exception being provided in Act 31 (c)

Implementation of Directive Principles : A summary statement on the adequacy of implementation may not be justified. Some principles, e.g. equal pay for men and women, free legal aid; reorganisation of village panchayats; participation of workers in management; protection of educational and economic interests of weaker sections, organisation of agriculture on modern lines; protection of ancient monuments etc., have been implemented satisfactorily. Some principles like proper operation of economic system and securing a just social order are such that continuous progress is expected in them.

(d) **Sovereignty of Parliament :** It means that the authority enjoyed by Parliament is uncontrolled and unlimited—in other words, Parliament with powers which cannot be challenged in a court of law, would be sovereign

Indian Parliament : It is not a sovereign body as the British Parliament is. It is not the only law making body nor are its laws final, nor has it exclusive constitutional law making powers. It is a co ordinate organ of the federal government. The main limitations upon the powers of the Parliament are :

- (i) All the Bills passed by the Parliament require the assent of the President to become laws
- (ii) The money Bills require the previous consent of the President before they are introduced in the Parliament
- (iii) The President can dissolve the Parliament at any time
- (iv) The President can issue ordinances during the recess of Parliament. Such ordinances have to be placed before Parliament for approval
- (v) Parliament can reduce or reject the financial demands but cannot increase them.
- (vi) The Supreme Court possesses the power of judicial review and can declare the laws of Parliament *ultra vires*, or unconstitutional.
- (vii) In practice, Parliament is controlled by the Cabinet. The Cabinet has always majority support in Parliament. Parliament becomes merely a registry office to place its legal stamp upon the decisions and policies of the Cabinet.

Q. 15. Answer any three of the following:*(2 to 3 sentences each)*

(a) When is a joint session of the two Houses of Parliament held? Who summons the sitting? Who presides over it? (b) Indicate the nature of the Fundamental Duties inserted in our Constitution. (c) How will you define judicial review? (d) What is the Public Accounts Committee of the Parliament in India? (e) When can Parliament make a law on a subject given in the State List? (f) What are the functions of Zonal Councils?

Ans (a) Joint Session of Parliament When the Houses of Parliament are locked in conflict over the passing of a bill other than a money bill or a Constitutional amendment bill, the President may summon a joint session to resolve the conflict. The Speaker of Lok Sabha presides over the joint-sitting.

(b) Nature of Fundamental Duties Fundamental Duties, inserted in Part IV-A of the Constitution are laudable norms of conduct for citizens of India. Some of them are positive directions and others, negative injunctions. They are non-enforceable in courts except as provided for in separate legislative enactments.

(c) Judicial Review It is the power of the superior courts, e.g., Supreme Court and High Courts, using which they decide on the constitutional validity of laws passed by legislatures and executive actions. Even constitutional amendment laws are brought within the purview of judicial review in India. Judicial review assumes greater importance in the context of Fundamental Rights available under the Constitution.

(d) Public Accounts Committee: The Public Accounts Committee of the Indian Parliament is a Parliamentary Committee charged with the function of scrutinizing the accounts of the Central Government in all its financial transactions. It consists of 22 members, 7 of them from the Rajya Sabha. It does not deal with the accounts of Central Public Sector Undertakings, since there is a separate Committee for that purpose.

(e) Law on a State Subject When the Rajya Sabha passes a resolution supported by not less than two-thirds of the members present and voting, that it is necessary in the national interest that the Parliament may enact laws on certain State subjects specified in the resolution, the Parliament may enact laws on those subjects. In order to implement any international treaty or agreement or when Emergency under Article 352 is in force, the Parliament may enact laws on any State Subject. Besides, if two or more States want that the Parliament should enact a Common Law for them on any State subject, then the Parliament may do so.

(f) Zonal Councils: These Councils were set up as 'a most useful device in the development of cooperative federalism'. The main function of these non-statutory advisory bodies is to discuss the matters of common interest for the Union and the States. Among

the objects to be achieved by the Councils are promotion of national integration, securing a political equilibrium between different regions in the country and encouraging cooperation among States in speedy execution of inter-State Developmental progress.

I.A.S.—1983

Q. 16 Many Countries which achieved independence after the war have come under dictatorship or military rule. What are the forces that have enabled India to maintain a democratic system ? Consider, in this connection, emergency provision of the Constitution of India in making presentation *(About 250 words)*

Ans The following forces/factors have enabled India to maintain democratic system in India in contrast to other countries of Asia and Africa which achieved independence after World War II.

(1) **Indian Constitution :** Apart from prescribing a democratic republic as the basic frame-work of Indian polity, the Constitution contains several provisions which place checks on the ambitious President or Prime Minister from bringing India under dictatorship. Lack of rigidity of the Constitution, which has enabled passing of major amendments, has contributed much in this respect. The *Emergency provisions* in Part XVIII are such that the Union executive gets ample powers to deal with any unforeseen, critical and emergency situation, but is prevented from overthrowing the constitutional institutions on the plea of protecting the country.

(2) **Political Leadership :** The Indian Prime Ministers have never entertained the remotest ambition of establishing dictatorship in India. The multi-party system has been responsible for reducing hero-worship and 'supreme leader cult'.

(3) **Role of military** The military has played the crucial role in sustaining democracy by not displaying the least political ambition.

(4) **Absence of powerful extremist organisations :** No extremist organisation has been able to build a power base in India.

(5) **Role of History :** Historically Indians have imbibed a democratic spirit through the impact of the long Freedom Struggle and by contact with the British political system. Different groups and institutions such as judiciary, the press and the intellectuals have also upheld democratic values.

(6) **Role of Geography :** The vast size of the country with its diverse cultures is a factor which inhibits any dictatorial leanings.

Q. 17 (i) What were the objectives in having three separate legislative lists in the Constitution of India ? (ii) Can the Parliament make laws in regard to any item in State list ? If so,

under what circumstances ? (iii) Does any of the issues arising from the above give rise to Centre-State controversies ? (About 250 words)

Ans (i) The Indian Constitution has three separate legislative lists—Union List, State List, and Concurrent List. Since India is a federation, distribution of powers between the Centre and the States necessitates the first two lists. The objective of having an elaborate Concurrent List is that while in normal circumstances, States may have power to legislate on a matter in Concurrent List, the Union Government should have the power to prescribe over-all policies to legislate on such matters under special or abnormal circumstances.

(ii) The Union Legislature has power to make laws with regard to matters in the State List in the following circumstances.

(1) **In Normal Times** : Parliament has power to make laws, with respect to any matter included in the State List for a temporary period, if the Rajya Sabha declares by resolution supported by not less than two-thirds of its members present and voting that it is necessary or expedient in the national interest that the Parliament should make laws over such subject. Each resolution should give a lease of one year to the law in question.

(2) **Under a Proclamation of Emergency** : When a proclamation of emergency made by the President is in operation, Parliament shall have similar powers. Such emergency legislation shall cease to have any effect on the expiry of 6 months after the proclamation has ceased to operate.

(3) **By agreement between the States** : Parliament may legislate for two or more states in any matter included in a State List, if the Legislatures of those States by resolution so desire. It shall also be open to any other states to adopt such legislation, but the Legislatures of State to which it applies cannot do so.

(4) **To implement treaties** : Parliament may pass laws for the whole or part of India to implement an international treaty, agreement or convention. The normal distribution of work will not affect powers of Parliament to legislate for the States in the matter.

(5) **Under a proclamation of failure of constitutional machinery in a State** : When such a proclamation is made, the President may declare that the powers of legislature of the State shall be exercisable by or under the authority of the Parliament.

(6) **Refusal to obey Executive Directives** : If a State disobeys the executive directions from the Union, the President may issue a proclamation transferring the legislative powers of the State to the Parliament.

(iii) There are many Centre-State Controversies relating to three lists in Schedule VII. The States have a general grievance that the items in the State List are so few in number and so trifling in

importance compared to items in the Union and Concurrent Lists. The tendency displayed by the Centre in transferring more and more subjects from the State List to the Concurrent List or Union List also has been criticised by the States. Since Emergency has been in operation for long periods since Independence, the Centre has freely used its power to enact laws on any State subject.

Q. 18 What was the amendment made in 1976, in the Preamble of our Constitution? Discuss its significance?

(About 150 words)

Ans. The Preamble to the Constitution of India was amended in 1976 to include the terms "Socialist", "Secular", and "Integrity". Each addition has its own significance.

Socialist. That the goal of the Indian Polity is socialism, has since been ensured by inserting the word 'Socialist' in the Constitution (42nd Amendment) Act 1976. It is to be noted, however, that the 'Socialism' envisaged by the Indian Constitution is not the usual scheme of state socialism, which involves 'nationalisation' of all means of production and the abolition of private property.

Need for the Unity and Integrity of the Nation : Unity among the inhabitants of this vast sub-continent torn asunder by a multitude of problems and fissiparous forces was the first requisite for maintaining the independence of the country as well as to make the experiment of democracy successful. The ideal of the unity has been buttressed by adding the words 'and integrity' of the Nation in the preamble, by the Constitution (42nd Amendment) Act, 1976.

A secular state, guaranteeing freedom of religion to all- The unity and fraternity of the people of India, professing numerous faiths, has been sought to be achieved by enshrining the ideal of a 'secular state', which means that the state protects all religions equally and does not itself uphold any religion as the state religion. The secular objective of the State has now been specially expressed by inserting the word "Secular" in the preamble by the Constitution (42nd Amendment) Act 1976. This itself is one of the glowing achievements of Indian democracy, when her neighbours, such as Pakistan and Burma, uphold particular religions as state religions.

Q. 19. "Separation of Powers is essential to ensure individual liberty." Discuss this with regard to the provisions in the Constitution and practices adopted so far.

(About 150 words)

Ans. Theory of Separation of Powers. In all modern States, it is customary to divide functions of the government into three classes, *i.e.* the legislative, executive, and judicial. This three-fold division of government powers has been recognised from the very ancient times. The theory, which says that it is essential for the liberty of the citizens that three powers should be in separate hands, *i.e.* the organs of the government should be separate and

independent of each other, is known as the theory of Separation of Powers.

According to this theory, it is necessary for the protection of liberty of the individual that the three departments of government should be completely separated from one another. No department should have power to control or interfere with the work of the other

Working of Separation of Powers in India : India has adopted the Parliamentary or Cabinet system of Government as it prevails in Great Britain. Under such a system, close co-operation between the legislature and executive wings is the first condition. In India Ministers are taken from the Parliament and are answerable to it for all their policies and actions. It can oust the Cabinet any time by passing a vote of no-confidence. On the other hand, under certain circumstances, even the Cabinet can ask the President to dissolve the Lok Sabha, if a vote of no-confidence is passed against the Ministry. In other words, the legislature and executive have to work in close co-operation with each other for the smooth running of the governmental machinery. However, the judiciary has been made independent of both the legislature and executive. In short, the doctrine of separation of powers has on the whole been abandoned in India.

Q 20 Consider the recommendations of the Mandal Commission and offer your comments, referring to the situations obtaining in the country *(About 150 words)*

Ans. The Mandal Commission was formed in 1978 under Mr B.P. Mandal to investigate the conditions of socially and educationally backward classes in India. Its report was released by the Union Government in May 1982. Its main recommendations were

- (i) additional reservation to the extent of 27% in the Central and State Government Services, public sector undertakings and educational institutions for 3743 castes both Hindu and non-Hindu, which have been grouped under the category of backward classes ;
- (ii) a five-fold scheme to ensure that the reservation policy would confer on the concerned sections the real benefits designed ;
- (iii) creation of a separate Ministry for backward classes at the Centre and in the States , and
- (iv) result of the reservation policy to be reviewed once in 25 years.

Points in favour

- (1) Through reservation backward classes will get full opportunities to join the mainstream.

(2) It would lead to social integration.

(3) Their first-hand knowledge of their problems should make such recruits more useful and sensitive in solving the problems of backward classes

Points against

(1) The continued reservation policy, far from actually ameliorating the lot of backward classes, has produced a kind of inertia which tends to take advantage of the reserved quota

(2) Merit too should not be sacrificed totally.

(3) Reservation policy is already causing resentment among the upper classes

Q. 21 Answer the following : (In 2 or 3 sentences, each)

(a) What is meant by Habeas corpus ? What is the purpose of Habeas Corpus ?

Ans The writ of *Habeas Corpus* is one of the writs under Fundamental Right of constitutional remedies and is issued in case of wrongful deprivation of personal liberty. A person held in custody or deprived of his liberty by anybody whatsoever may petition the Supreme Court or High Court for a writ of Habeas Corpus. When this writ is issued, it is directed to the person or persons who hold the petitioner in custody and, according to the terms, the prisoner must be forthwith brought before the court and reasons given for his detention. If these reasons satisfy the court, for example, if there is *prima facie* evidence that the prisoner is being legally held and that proper steps are being taken to bring him to trial, he may be returned to the custody. If, on the other hand, the reasons for his detention are deemed unsatisfactory, the court will order the prisoner's release. Thus, the writ of Habeas Corpus is the primary procedure by which a person unjustly deprived of his liberty can promptly regain it, or by which an accused person can be assured of being brought to trial within a reasonable time.

(b) Why was "education" taken out of the State list and inserted in the concurrent list ?

Ans Education was transferred from the State List to Concurrent List by the 42nd Amendment Act in 1976. The stated aim was that the Centre should be able to formulate over-all policy guidelines regarding the content and nature of education at all levels and to ensure uniformity of pattern, necessary for best results

(c) **How and by which authority can a State Legislative Council be abolished ?**

Ans Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the assembly and by a majority of not less than 2/3rds of the members present and voting

(d) **Who is eligible to be appointed Governor of a State ?**

Ans The Governor of a State is appointed by the President. Only a citizen of India, who has completed 35 years of age, is eligible for appointment as Governor. He need not be a resident of that State for appointment as Governor. He holds office for a period of 5 years. He receives a salary of Rs 11,000 per month, and is entitled to certain other allowances and privileges

I.A.S.—1984

Q. 22 There is no need to replace the Parliamentary form of Government in India with the Presidential form of Government. Justify or oppose this statement with cogent arguments
(About 250 words)

Ans.

Arguments for the View

(1) Parliamentary system has worked well in India. It is not necessary to disturb it

(2) The Parliamentary form is eminently suited for a vast country like India with ethnic, cultural and other diversities

(3) In Indian situation, Presidential form will be dangerous without safeguards like limited number of terms for an incumbent, party convention, etc. Emergence of a supreme leader outside party bounds will spell disaster to democracy.

(4) The Parliamentary form has the advantage of harmony and cooperation between the executive and the legislature. The executive gets its will implemented through legislation

(5) The Parliamentary system paves a smooth way for the emergence of competent ministers. The President in the presidential form invariably suffers from lack of training ground and previous experience.

Arguments against the View

(1) A strong executive is possible in the presidential system, since executive authority is concentrated in a single person

(2) Stability of the executive and the Parliament is an asset of the presidential system. Both have fixed tenures and cannot be disturbed during their tenure.

(3) In Presidential System, separation of powers is ensured between the executive and the legislature

(4) The Presidential System enables the executive to draw upon all the talents available in the country. Experts can be appointed as secretaries to the President. In the Parliamentary system, only legislators can be the Ministers

Q. 23 It is the duty of the majority to instil confidence in the minority. Conversely, the minorities must also look beyond narrow sectarian interests and work for the larger goal of a real secular society in India. Evaluate in the light of the spirit of the Indian Constitution and the Indian experience (About 250 words)

Ans The Constitution has established India as a secular democracy. The Preamble declares the resolve of the people of India to secure to all its citizens "liberty of belief, faith and worship". Articles 25 to 28 enunciate the Freedom of Religion. The Constitution ensures its democratic and welfare character on the one hand, and freedom of conscience and free profession, practice and propagation of religion to every citizen, on the other. Arts 29 and 30 further enable religious minorities to preserve their cultural and religious interests by providing that (a) the State shall not impose on them any culture other than the community's own culture, (b) that such a community shall have the right to establish and administer educational institutions of its choice; and (c) that the State shall not, in granting aid to educational institutions, discriminate against such an educational institution.

Against this liberal and well-balanced spirit of secularism, the actual Indian experience has been disappointing. The majority community's actions are often marked by chauvinism, fanaticism and aggressive attitude encouraged by reactionary groups. The administration is often partisan instead of acting in a secular and impartial manner. This instils insecurity instead of confidence in the minorities. At the same time the minorities also show an isolationist, fundamentalist, and obscurantist attitude. There is a narrow outlook in demanding concessions on sectarian and religious basis, instead of an attempt to develop a truly secular nation. However, these basic attitudes of the majority and minority are exploited by vested interests, including politicians to separate the communities.

Q. 24 Discuss the importance of the independence of judiciary in a democracy. (About 150 words)

Ans The Judiciary is one of the three pillars of a state and the independence of the judiciary is the cornerstone of a democracy.

which enjoins the separation of powers. Functions of judiciary involve unbiased interpretation of Constitution and the law. Independence of judiciary is required to ensure justice. Judicial decisions can be fair and without favour only if judiciary is free of executive influence, especially where executive is often a party to a dispute

Judiciary must be independent of political influence too. The judges must remain away from political activities. Judges should also remain free from their own prejudices while deciding the merits of a case. It is to ensure independence of judiciary that the service conditions of at least the higher judges are not dependent on the executive or the legislature in a democracy. However, independence of judiciary does not mean becoming a law unto themselves. A democracy is of the people, by the people and for the people. The independence of the judiciary is necessary for a democracy to maintain its democratic characteristic—to ensure that the common man gets his due.

Q 25. Discuss the Composition and functions of Election Commission *(About 150 words)*

Ans. The Election Commission consists of a Chief Election Commissioner and such other Commissioners as the President may, from time to time, fix. The Election Commission has the power of superintendence, direction and conduct of all elections to Parliament and the State Legislatures and of elections to the offices of the President and Vice-President.

As soon as the President dissolves the Lok Sabha, the election machinery gears up into action for the nationwide poll. Its first responsibility is appointment or nomination of officers and distribution of functions to various officers.

The Election Commission prepares the list of eligible voters for each constituency. After that it announces the dates of polling. It scrutinises all the nomination papers and declares the names of eligible candidates. It allots symbols. The Election Commission then gives recognition to political parties as national political parties. Detailed preparation for the poll such as arranging ballot boxes, ballot papers, indelible ink, stamps, the booth or enclosure for voting at elections, are made by the Commission which brings out visual aids to educate the people on the *do's* and *don't's* in elections.

After the counting, the Commission declares the result. The Commission may postpone or countermand the elections in some constituencies for various reasons. Question of disqualification of election candidates or of Members of Parliament and of State Legislatures are referred to the Commission by the President or the Governor and its opinion are binding on the latter.

Q 26 Despite all talk about the need for an effective opposition, why it has not been possible to develop an effective opposition in India ? Enumerate the principal impediments to the achievement of much desired political objective. (About 150 words)

Ans Under a Parliamentary Democracy, the Opposition's role is to constantly watch the policies and actions of the government and highlight its failures

Probably the two-party system will be ideal for developing an effective opposition. But the historical circumstances, in which the party system developed in India, were such that for many years after independence, there was only one dominant party—the Congress—at the Centre and the States. After independence, several parties have been formed owing to personality clashes and communal and regional affinities

The principal impediments in the path of achieving an effective opposition is lack of understanding and cooperation among top-most leaders of political parties. To expect polarisation of disparate political parties may prove too much. However, floor coordination of opposition parties may be a practical means of achieving an effective opposition. Some may question whether merger or polarisation is the best means of having an effective opposition. But personality clashes, personal ambitions and conflicts of interests are responsible for making the opposition ineffective today

Q 27 How is the Governor of a State appointed in India ? Does the manner of his appointment ensure his independent functioning ? (About 150 words)

Ans The Governor is appointed by the President, holds office during the pleasure of the President, but normally, he will have 5-year tenure. The convention is that the President consults the State Government before appointing a Governor in that State. In reality however, the Governor is the nominee of the Prime Minister at the Centre. In the appointment of the Governor, the State Government may be—but generally is not—consulted. With different parties ruling at Centre and State levels, this kind of appointment gives rise to controversy. More often than not an appointee for the Governor's post is close to the party at the Centre. In such a case, though the Governor is supposed to act impartially, he often cow-tows to the Centre's commands. He often takes Centre-biased decisions to dissolve the Assembly or appoint a new Chief Minister or report for imposition of President's Rule. The State Government can do nothing but ask for his recall. Thus the manner of his appointment does not ensure his independent functioning in practice. A drastic change in the manner of Governor's appointment is called for.

Q 28. Answer the following : (In 2 to 3 sentences each)

(a) What is the present status of the Right to Property ?

Ans (a) At present, *i.e.*, after the 44th Amendment Act of 1978, Right to Property is not a Fundamental Right. It is still a statutory right since Art 300A provides that no person shall be deprived of his property except by authority of law. However, the property of educational institutions of minorities still enjoys certain protections in Part III.

(b) Is the Indian Parliament a "Sovereign" or a "non-Sovereign" legislature or both ?

Ans The Indian Parliament is both sovereign and non-sovereign. It is not a sovereign body as its laws are subject to judicial review by the Supreme Court. At the same time it is sovereign because it is fully empowered to make laws in the areas which the Constitution says it can. The judiciary, legislature and the executive are given balanced power under the Indian Constitution.

(c) Mention any three Directive Principles concerning social and economic justice

Ans (i) The State shall strive to secure a just social order (ii) The State shall secure that the ownership of the material resources in the country are so distributed as to subserve common good (iii) The operation of the economic system should be such that it does not result in the concentration of wealth and means of production to the common detriment.

(d) On what grounds can the President of India be impeached?

Ans (d) The President can be impeached only on the ground of violation of the Constitution. The specific manner in which he has violated the Constitution will be specified in the charges against him during the impeachment proceedings.

(e) Distinguish between the Head of State and the Head of Government. Which of the two offices is more important in India.

Ans The Head of State is the nominal head in whom all executive powers are vested but who, however, is not empowered to act on his own. The Head of Government is the one who is the one who in reality is empowered to take decisions in executive matters and advise the Head of State to act accordingly. In India the Head of Government is more important.

(f) **When can the Governor of a State reserve a bill for consideration by the President ?**

Ans When a bill is presented to the Governor after it is passed or deemed to have been passed by the State Legislature, one of the options open to the Governor is to reserve the bill for consideration of the President. Regarding the reservation of bills the Governor is vested with absolute discretion which cannot be questioned by anyone. There are several Articles in the Constitution indicating when a bill shall be reserved by the Governor, the main provision being that a bill which has the effect of derogating from powers of the High Court so as to endanger its position under the Constitution.

I.A.S. —1985

Q 29. Discuss the political, economic and social characteristics of the Indian State (About 250 words)

Ans The Indian State, like any other State has the basic features of territory, population, government and sovereignty. The peculiar attributes and special characteristics of India in all these aspects can be considered under the heads: political, social and economic.

Political Characteristics : As a liberal democracy with a written Constitution, the Indian Polity is marked by several features in common with Western democracies—democratic republic, secularism, quasi-federal set up, independence of judiciary with power of judicial review, availability of fundamental rights, multi-party system etc. However, there are some peculiar characteristics such as regionalism, absence of ideological commitment of politicians and major political parties, gulf between masses and the elites, low standard of political morality, political defection, rampant dissidence, hero-worship, the indifference of the electorate towards the political issues etc. Unresolved disputes with neighbouring countries and insurgency in border States have now been compounded with the terrorist menace. However, the defective political system in India will have to be assessed favourably against the background of many Third World countries, which are now under dictatorship.

Economic Characteristics Underdevelopment, over-population, poverty, unemployment and low rate of growth are some of the essential characteristics which mark the Indian state. Against

this background, the government policies are oriented, through planning process and socialism, to the achievement of rapid economic development along with the social justice

Social Characteristics The pernicious caste system is the dominant characteristic of the Indian State. The class distinctions, mixed up with the caste system, have created an inequitable social order, leading to problems like communalism, casteism, atrocities on Harijans, caste conflicts, reservation controversies etc

Q 30 Keeping in view the political developments in India explain how the need for national integration and the urge for regional autonomy can be reconciled (About 250 words)

Ans The Need for National Integration National Integration means that the people of India irrespective of their language, caste, religion, state and social customs, must develop a spirit of common national consciousness and maintain a national solidarity in their outlook and attitude. In a vast country like India, national integration cannot be taken for granted. Emotional integration has to be fostered amidst regional, linguistic and communal affinities. The existence of secessionist and fissiparous tendencies since independence in various parts of India has forced the Indian leaders to have their eyes focussed on national integration.

The urge for regional autonomy At the time of Independence, the Indian leaders and Constitution-makers were convinced that a strong centre was essential for India's progress even while they were aware of the under-currents of regional, cultural, linguistic diversities. In due course, popular aspirations based on region, language and community have been increasingly asserted. Sub-nationalism among sections of people, who had never lost their identity even during the British rule, is a major reality in Indian polity today. Efforts to stifle the regional sentiment and loyalty have boomeranged thereby making the leaders realise the need for accommodating regional demands.

Reconciliation : Within the framework of the Indian Constitution, it is possible to reconcile national integration and regional autonomy, provided the national leaders have the broadmindedness and far-sighted vision. Providing for genuine regional autonomy, even while maintaining the strength of the Centre, will surely promote national integration better than half-baked policies foisted on unwilling population using a steam-roller majority. More financial powers to the States, better devolution of finances from the Centre to the States, quick clearance of States projects and bills, respect for regional, linguistic and cultural diversities, drastic decentralisation of powers at all levels, will go a long way towards such reconciliation.

Q 31 Explain the grounds on which the President can proclaim a State of Emergency. Give examples from the Indian experience
(About 150 words)

Ans (1) Under Art 352, as amended by the 44th Amendment Act, Emergency may be declared on any of the following grounds—war or external aggression or armed rebellion, if either of these situations threaten the security of India or any part of India. The proclamation may be made even if there is an imminent danger to the security of the country

(2) As per Art 356 if the President, on receipt of a report from the Governor of a state or otherwise, is satisfied that a situation has arisen whereby the government of the state cannot be carried on in accordance with the provisions of the Constitution, he may issue a proclamation of Emergency due to breakdown of constitutional machinery

(3) Under Art 360 Emergency may be declared if the President is satisfied that a situation has arisen whereby the financial stability or credit of India, or any part thereof, is threatened

National Emergency under Article 352 on ground of external threat was first proclaimed in 1962 in view of the Chinese aggression in the NEFA, and once again in 1971 when Pakistan attacked India. In June 1975 Emergency was declared on ground of 'internal disturbance'. But after 1978 armed rebellion has substituted 'internal disturbance' as a ground for proclaiming Emergency.

The proclamation of the second kind—commonly called President's Rule—has taken place *vis-a-vis* practically every state in India and has aroused friction in Centre-State relations, especially because of the Governor's role. The third type of emergency—Financial—has not been proclaimed in India so far.

Q 32 What changes, according to you, have taken place in the power structure in rural India in recent decades?
(About 150 words)

Ans The Constitution of Free India envisages the necessity of democratisation and decentralisation of power; elimination of castes, discrimination and untouchability; preferential treatment to socially vulnerable groups and accelerated economic growth of rural population. After independence the Government of India planned to replace the leadership systems prevalent in the rural areas by the new

system. Traditionally, the power structure was feudal with the zamindars and landlords and persons of certain castes holding almost unquestioned power. After independence, several land reform measures and other welfare schemes have been tried to make some impact on rural power structure. In many rural areas the members of the Panchayat are no longer necessarily persons with a hereditary claim to leadership. This could be the result of occupational change as increased mobility created by economic diversification has led to a redistribution of wealth. However, the impact is still limited. Economic diversification has not made much impact on social structure. The caste base of rural power structure is still very strong. The farmer caste still dominates as it has made maximum use of the economic schemes devised by the government. At present though the hereditary leadership pattern is not being followed strictly, another non-democratic principle of power that wealth is a sufficient qualification of leadership is now more effective. Power is still determined by caste and kin groups. The socially weak are not assisted by the power structure.

Q. 33 Is it correct to describe the party system in India as a 'one-party dominant system'? Give reasons for your answer.
(About 150 words)

Ans. It is difficult to fit the party system of India into any of the conventional typologies. Some scholars have expressed the view that India has a 'one-party dominance system' because except for a period of brief intervals, the Congress has exercised its domination over other political parties.

Thus it would not be inaccurate to describe the party system in India as a one party dominant system. The Congress has shown an all-inclusive character and claims to represent all sections of the nation. This dominant party leaves little ground on which the opposition parties might develop distinct identities and acquire a wide electoral base. Though the opposition parties are free to function in the political system, their role is rather limited. The experiment of Janata Party, which was a sort of alliance of the opposition parties, proved to be a failure because of their factional fights. Thus with little prospect of replacing the Congress at the National level, most opposition parties act virtually as pressure groups.

However, some recent political developments point towards the fact that the drift towards one party dominant system has been checked. Several regional parties have succeeded in capturing power in various states. Thus, though at the Central level, the Congress has held sway for practically all the time, at the State level, other parties are coming up. In a federal set-up, we cannot ignore this development and call the party system in India as a 'one party dominant system'.

Q 34. Answer the following : (In 2 or 3 sentences each)

(a) **What is the provision in the Constitution for representation of the Anglo-Indian community in the Lok Sabha ?**

Ans According to Article 331 of the Indian Constitution, the President of India may nominate not more than two members of the Anglo Indian community to Lok Sabha, if he is of opinion that the Anglo Indian community is not adequately represented in the Lok Sabha.

(b) **Explain the role of the National Development Council.**

Ans The National Development Council was formed in 1952, as an adjunct to the Planning Commission for the purpose of associating the States in the formulation of the plans. The functions of the Council are to strengthen and mobilise the efforts and resources of the nation in support of the plans, to promote common economic policies in all vital spheres and to ensure the balanced and rapid development of all parts of the country, to review the working of the National Plan from time to time ; and to recommend measures for the achievement of the aims and targets set out in the National Plan.

(c) **What is the party affiliation of each of the following trade unions ?**

(i) INTUC ; (ii) AITUC ; (iii) IFTU ; (iv) HMS ; (v) CITU.

Ans (i) Congress—I ; (ii) Communist Party of India ; (iii) CPI(M) (iv) BJP : (v) CPI (M).

(c) What is the meaning of public-interest litigation ?

Ans *Public-interest litigation* means that any member of the public can directly write to and draw attention of the court to some injustice being suffered by members of the public

(e) What additions have been made to the Directive Principles of State Policy since the commencement of the Constitution ?

Ans. *Additions by the 42nd Amendment Act, 1976* . To protect and improve the environment and to safeguard forests and wildlife (Art. 48A). Right of children and the young to be protected against exploitation and given opportunities for healthy development, in conditions of freedom and dignity [Art 39(f)] Right to equal opportunity for justice and free legal aid (Art. 39A), Right of workers to participate in management of industries (Art. 43A)

Additions by the 44th Amendment Act, 1978 : To minimise inequality in income, status, facilities and opportunities amongst individuals and groups (Art. 38 (2)).

(f) For what purpose was the Ranganath Mishra Commission appointed ?

Ans *Ranganath Mishra Commission* was appointed by the Government of India to investigate into the circumstances which led to the occurrence of riots in Delhi following the assassination of Mrs. Gandhi. Later on the jurisdiction of Ranganath Mishra Commission was increased to look into the situation leading to occurrence of riots in Bokaro and Kanpur.

I.A.S.—1986

Q 35. Briefly mention the factors which have promoted concentration of powers in the Centre in India and discuss the response of the States to this tendency. (About 250 words)

Ans **Concentration of Powers in the Centre :**

The following factors have promoted concentration of powers in the Centre in India :

(i) **Division of Powers in favour of the Centre :** The Indian Constitution has distributed the powers between the Centre and the States in such a way that the Centre has become stronger than the States. The Central government gets the lion's share of the powers. Most important and almost all important subjects have been included in the Union list. If there is a clash over a subject in the Concurrent list between the Centre and the States, the will of the Centre prevails.

(ii) **Central encroachment into States' sphere :** There are many provisions in the Constitution with the help of which the Centre can interfere with the powers of the States and exercise its authority : (a) The Parliament by ordinary majority can change the names and boundaries of the states. It can create and abolish Legislative Councils in States. (b) Rajya Sabha can transfer a State subject in favour of the Centre in the name of national interest.

(iii) **Influence of the Union Executive over the State Executive :** The Governor of a State is appointed by the President of India. The entire State administration is run in the name of the Governor. The Governor is the head of the State as well as the agent of the Central Government. The Governor remains in office during the pleasure of the President. Thus, in order to remain in office, the Governors are obliged to act in accordance with the wishes of the Central Government.

(iv) **Centralised Planning :** The Planning Commission is an extra-constitutional body. In allocating resources for Five Year Plans to the States, it indirectly plays a role in determining the Centre-State financial relations. Thus, it is accused of encroaching upon the States' economy. There is some justification behind the criticism that there is overlapping of its work and responsibility with that of the Finance Commission. The resources at the disposal of the States to implement the plans are declared to be inadequate. States want less Central control over regional development plans and more decentralization of power.

(v) **Long rule of the Congress Party :** Long rule of one Party at Centre and in States has reduced State governments into subordination of the Centre.

(vi) **President's Rule :** Arbitrary imposition of President's rule, especially now when many States are governed by regional parties, on the basis of reports from the Governors, partial to the ruling party at the Centre, promotes concentration of power in the Centre.

(vii) **Increase in salaries and allowances of Staff :** Unilateral increase in wages and salaries by Centre creates problems for States, rendering them weak.

(viii) **Control of Industries :** The centre controls most of the industries through licences. This also makes State Governments weak and dependent upon the Centre.

Response of the State :

The States clamour for greater power and demand that the Centre keep clear of the spheres allotted to the states

During the past two decades there has been a growth of regional parties which have been able to form governments in many States. They are trying to forge a suitable platform from which to keep a check on the growing unitary trends of Centre

Q. 36. Examine the role of the bureaucracy as an instrument of economic change in India. In this context, discuss the relationship between the Ministers and Civil Servants in the policy-making process. *(About 250 words)*

Ans. Role of Bureaucracy

The importance of the Civil Services is increasing day by day in modern democratic States. Its role can be studied under the following heads

(i) **Administrative Role** Administrative function is the key function of Civil Services. A Minister formulates a policy but the responsibility of implementing the same falls on the Civil Services. Even a good policy can prove worthless in case it is not implemented effectively.

(ii) **To influence the Policy** Though policies are framed by a political executive, yet the Civil Services contribute a lot to the policy formulation on the basis of their ability to influence the process of policy-making. The Civil Servants provide statistics to the Ministers at the time of framing a policy.

(iii) **Advisory Role :** The Civil Services play a vital role in advising the political executive. Since the Ministers possess no technical knowledge of their departments, they depend on the Civil Servants to run administration. Secretaries and Joint Secretaries are always consulted by the Ministers and they help them in actual realisation of objectives and implementation of Plans.

(iv) **Legislative Role :** The Civil Services play an important role in drafting legislation. In countries like India, having Parliamentary form of Government, most of the bills are presented by Ministers in Parliament. The drafts of these bills are prepared by permanent officers of government. The Civil Servants propose various laws to solve social, economic and political problems.

(v) **Delegated Legislation :** Since modern State is a welfare state, the work of the Parliament has increased manifold and so it has no time to pass any bill with detailed guidelines and provisions. The Parliament generally determines the general principles

of a law and the detailed rules connected with the law are left to be framed by the executive. The system is called subordinate legislation. The power of delegated legislation is exercised by the Civil Servants.

(vi) **Co ordination** Efficiency of an administration depends upon co ordination among different departments. This desired co-ordination is established by Civil Servants.

(vii) **Public Relation Role** The Civil Services establish relations with public in various ways to make their policies successful with their co operation.

Relationship between Civil Services and the Minister in the Policy making Process

The type of relationship that should prevail between the Minister and the higher Civil Services, who frequently come into contact with the Minister directly, may be discussed under the following heads

(i) **Formulation Stage** The Civil Servant should discuss with the Minister the practical problems and facts while tendering free and frank advice. He should also take into account the problems of the people expressed by the Minister and should work with keen interest to secure the proper formulation and implementation of programmes. However, the Minister should reciprocate the co-operation of the Civil Servant by listening to his advice and taking him into confidence while taking decisions.

The Civil Servant is not bound to carry out an unauthorised or illegal instruction issued by the Minister.

(ii) **Implementation Stage** Once a policy has been formulated or decision has been taken, the Civil Servant is expected to carry it out with interest and zeal. It is for the Civil Servant to obtain periodical reports, to submit them to the Minister and to seek necessary orders in connection with the problems encountered in the implementation.

Q. 37 Discuss the provisions of Art. 249 of the Indian Constitution (About 150 words)

Ans Art 249 of Indian Constitution : According to Article 249 of the Constitution, Parliament has been given the power to legislate with respect to any matter in the State list in the national interest. If the Rajya Sabha passes a resolution supported by two-thirds of the members present and voting that, it is necessary in the national interest for the Parliament to enact such a law on a State subject, the Parliament may make law on that subject. A resolution passed by the Rajya Sabha shall remain in force for a period not exceeding one year. The law made by the Parliament on the State subject shall cease to have effect at the expiration of six months from the one-year period mentioned above.

These powers point to the general predominance of Parliament over State Legislatures in the legislative field

Q 38 Write a short note on the ordinance-making power of the President of India (About 150 words)

Ans. Ordinance-making Power of the President : When the Parliament is not in session and the President is satisfied that circumstances exist, which render it necessary for him to take immediate action, he may promulgate an Ordinance which has the same force and effect as the law of Parliament, subject to the following conditions :

- (i) this power should be exercised by the President on the advice of the Council of Ministers ;
- (ii) the ordinance must be laid before the Parliament when it reassembles. It shall automatically cease to have effect at the expiry of six weeks from the date of reassembly, unless approved earlier ; and
- (iii) such ordinances must be within the ambit of Parliament's jurisdiction

Q 39. Discuss the role of pressure groups in Indian politics

Ans. Pressure Groups : These are private associations formed to influence public policy. The aim of these groups is to uphold their interests by trying to influence the government. They do not intend to capture power. These differ from lobbies in the respect that the pressure groups are interested in influencing both the legislature and the public opinion, while lobbies concentrate on the legislature when it is in session and are concerned with the passage or defeat of a particular bill.

In India, the resources being limited, officials often view pressure groups with distrust. Often their demands are ignored. Thus, the interests of specific groups sometimes take the form of individual pressure or means other than legitimate democratic pressure. Money plays an important part in these 'influences' as does personal contact. Thus, pressure groups have been unable to provide the necessary institutional order of access to structure. But political parties are governed by the consideration of some of these pressure groups, especially at election times.

Q 40 How does the Parliament seek to exercise control over public sector undertakings ? (About 150 words)

Ans. Parliamentary Control over Public Sector Undertakings : Since the Parliament is the custodian of public finances and

represents the ultimate share holders, i.e., the tax-payers, a public undertaking/departmental concern or government company or public corporation has to be accountable to Parliament. There are several ways in which Parliament exercises control over Public Sector Undertakings of the Central Government. Some of these are

- (i) Parliament questions ;
- (ii) Adjournment motions ,
- (iii) Parliamentary debate about any enterprise ,
- (iv) Budget Debate ;
- (v) Debate on Bills and Resolutions relating to public-sector undertakings ,
- (vi) Discussion on annual or periodical reports, including reports of Comptroller and Auditor-General of India .

Q 41 Answer the following : (In 2 or 3 sentences each)

(a) What is Appropriation Bill ?

Ans The demands for expenditure made by government and voted by Lok Sabha as well as the expenditure charged on the Consolidated Fund of India are incorporated in an Appropriation Bill. It provides the legal authority for the withdrawal of these sums from the Consolidated Fund of India.

(b) What categories of persons are nominated by the President to the Rajya Sabha ?

Ans The President nominates 12 members to the Rajya Sabha for special knowledge or practical experience in art, literature, science and social services.

(c) Mention any three important entries in the Concurrent List in the Seventh Schedule of the Indian Constitution ?

Ans. (i) Education (ii) Economic Planning (iii) Criminal Laws and Procedures.

(d) How is the Vice-President of India elected ?

Ans The Vice-President of India is elected by the members of both Houses of Parliament at a joint session by means of single transferable vote, according to the system of proportional representation. Voting is by secret ballot.

(e) What are Zonal Councils ?

Ans. Zonal Councils are six advisory bodies formed under State Reorganisation Act; 1956, in order to (i) inquire into, and advise upon disputes, which may arise amongst the States

(ii) investigate and discuss budgets, in which some or all the States or Union and one or more States have common interest, (iii) make recommendations upon any such subject and in particular, recommendations for the better co-ordination of policy and action with respect to that matter

(f) What do you understand by 'Preventive detention' ?

Ans. It means the arrest or detention of a person without trial

Its objective is to prevent the concerned person from doing something wrong. It is generally resorted to in such circumstances that the evidence in possession is not sufficient to secure legal conviction but may be enough to justify detention on suspicions that he would commit a wrongful act unless detained

I.A.S.—1987

Q. 42 Briefly mention why and how the chapter on Directive Principles gained precedence over the chapter on Fundamental Rights in the Indian Constitution ? *(About 250 words)*

Ans. The Directive Principles of State Policy are contained in Part IV of the Constitution. These principles are fundamental to the governance of the country and the various governments while enacting laws or taking administrative actions are expected to give them due regard. On the other hand, Fundamental Rights are basic rights contained in Part III of the Constitution, which are essential for the growth of an individual's personality and are enjoyed by each citizen irrespective of caste, colour, creed, religion, race and sex.

However, these directive principles are non-justiciable and their violation cannot be challenged in any court of law. Further, these Directive Principles were made subservient to the Fundamental Rights. This implies that if they come in conflict with the fundamental rights, they were declared void to that extent. As this greatly stood in the way of Government's ambitions to establish socialistic society in the country, it carried out certain amendments to the Constitution with a view to accord position of precedence to Directive Principles over Fundamental Rights.

The first step in rectifying this situation was taken when the Twenty-fifth Amendment (1971) provided that a law enacted by Parliament for the purpose of implementing a 'Directive' given in Art. 39 could not be struck down on the ground that it contravened a Fundamental Right. The Forty-second Amendment (1976) com-

pleted the process by extending primacy to all Directive Principles. With these changes in the Constitution, the Directive Principles were made truly 'fundamental' in the governance of the country. It was provided that any law passed by any legislature, whether Central or State, with a view to implement the Directive Principles cannot be challenged on the ground that it goes against any of the Fundamental Rights guaranteed under Part III.

As attempt made by the 45th Amendment to restore the position prior to the 42nd Amendment could not be done as the Rajya Sabha made an amendment. However, the Supreme Court has struck down the Article 31 (C), establishing primacy of all Directive Principles over Fundamental Rights. As the position is now, Article 31 (C), will protect laws made in contravention of Fundamental Rights of Equality and Personal Freedom (Art 14 and 19) only.

Q. 43 Identify the nature and methods of parliamentary control over executive in Indian polity *(About 250 words)*

Ans Methods of Parliamentary control over Executive
The Parliament controls the Executive in the following ways

(1) The Prime Minister and the other Ministers are taken from the Parliament and after becoming ministers, they remain the Members of Parliament. They participate in the meetings of the Parliament.

(2) The Ministers are responsible to the Parliament for their actions and policies.

(3) The Members of the Parliament can ask the Ministers questions regarding the functioning of the administration. The Ministers are required to give a satisfactory reply to all these questions.

(4) The Members of Parliament, by introducing 'Adjournment Motion' can invite the attention of the government to a serious problem or event.

(5) During discussion on budget, the Members of the Parliament discuss the working of different departments of the government and criticise the policies of the government.

(6) The Cabinet continues to remain in office according to the wishes of Lok Sabha. It can seek the removal of the Cabinet by passing a no-confidence motion against the government or by rejecting important government bill or by passing a resolution for reducing the financial demand (Cut Motion) of any particular ministry.

Nature of Parliamentary Control : The Parliament may discuss, debate, criticise and sometime bitterly attack the policies of

the Government, but it ultimately approves what is done by the Ministry. The rigid discipline has further reduced the control of the Parliament over the Ministry and the proposals submitted by the Cabinet are readily accepted by the Parliament, as the Cabinet has generally a majority in Parliament. Thus the Parliament has virtually become a decision—approving and policy-endorsing body.

Q 44 What are the main features of the Anti-Defection Legislation of 1985 ? *(About 150 words)*

Ans The Anti-Defection Act was passed by Parliament in January 1985. It provides that any Member of Parliament or State Legislature will lose his membership—

- (i) if he voluntarily gives up the membership of the party on whose ticket he is elected, or
- (ii) if he votes or abstains from voting in such House contrary to any directive issued by the political party and such voting or absenteeism is not condoned by party within 15 days.

This law shall not apply

- (a) in case of a split in which at least 1/3rd members of a legislature party are involved;
- (b) to a situation of 'merger', when at least 2/3rd members of a legislature party merge themselves with another political party;
- (c) to a person who resigns membership of his party after being elected as the presiding officer of the House and he rejoins the party after laying down that office.

Q 45 To what extent does the President of India possess discretionary powers? If so, what are they? *(About 150 words)*

Ans The President under the Parliamentary system adopted in India is only a constitutional ruler and is expected to act on the advice of the Council of Ministers. In fact, the advice of the Council of Ministers has been made binding on him under the 42nd Amendment. The only 'discretionary power' the President has in this context is his new power to ask that the advice received in a particular case be considered again by the Council of Ministers. Once a particular case is reconsidered and returned to the President, he cannot refuse to act in accordance with it. The President can return a particular matter to the cabinet for reconsideration only once.

Theoretically, the President may act upon his discretion, if no party has a clearcut majority in the Parliament, in choosing the

leader of the House When a Prime Minister dies, the Council of Ministers stands dissolved, and there is no Council of Ministers to advise the President. During the time taken in the matter of choosing a new Prime Minister, it should appear that the President may exercise his discretion, of course, within the limits of the Constitution.

Q 46. Discuss the importance of Article 32 of the Indian Constitution. (About 150 words)

Ans. Article 32 of the Indian Constitution, which deals with the right to 'constitutional remedies', has been described by Dr B. R. Ambedkar, the Chairman of the Drafting Committee of the Indian Constitution, as the very heart of the Constitution. It guarantees the right to move the Supreme Court by appropriate proceedings for the enforcement of rights conferred by Part III of the Constitution. The Supreme Court has been vested with special jurisdiction and responsibility in the matter of enforcement of Fundamental Rights. In the exercise of this jurisdiction, the Supreme Court is empowered to issue orders, directions and writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari, which may be appropriate. This power of the Supreme Court is not exclusive but is concurrent with that of the High Courts. Under Art 226, the High Courts have also been empowered to issue orders, directions and writs for the enforcement of Fundamental Rights. It is the duty of the judiciary to enforce the rights of the individual. Thus Article 32 is the prop of Indian democracy.

Q 47. "There are political personalities but no political parties in India." Comment (About 150 words)

Ans. In India though a large number of parties exist, these political parties are not based on any set social and economic policies or programmes. Mostly these parties have been formed around certain personalities. This is evident from the existence of political parties like Telugu Desam, DMK and Janata Dal, which enjoy popularity because of magnetic personalities of N.T. Rama Rao, M. Karunanidhi and V.P. Singh at the helm of affairs of these parties.

Even other political parties, which claim to possess definite programmes and policies, are dominated by leaders. For example, Congress captured power largely due to the magnetic personalities of Pt. Nehru, Indira Gandhi and Rajiv Gandhi. But to say that there are 'no political parties in India' would be inaccurate. The reality is that political parties exist by projecting personalities, for each of the names mentioned above brings to mind the party of which he is the leader.

Q 48. Answer the following : (In 2 or 3 lines each)

(a) Define the writ of Certiorari ?

Ans. Certiorari is a writ issued by a superior court to an

inferior court or quasi-judicial body asking the latter to transfer all the records of any case to the former. It is a means of enforcing a Fundamental Right.

(b) What do you understand by "positive discrimination"?

Ans Article 14 of the Constitution assures equality to all citizens and prohibits discrimination between citizens on grounds of religion, race, caste, sex, place of birth etc. But at the same time it also permits the State to make special provisions for women, children and other backward classes viz scheduled castes and scheduled tribes. This power granted to the State to discriminate in favour of women, children and other backward classes of society is known as 'positive discrimination'.

(c) Why is Indian Constitution called quasi-federal ?

Ans The Constitution of India has been described as quasi-federal because apart from possessing certain federal features like a written constitution, a rigid constitution, a division of powers, an independent judiciary, etc., it also possesses certain unitary features such as a strong centre, single citizenship, same constitution both for Centre and the States, appointment of Governors of States by the Centre, unequal representation of States in Rajya Sabha, All India services etc. In view of so many unitary features, the Indian Constitution has been described as quasi-federal.

(d) Under what circumstances can Financial Emergency be imposed in India ?

Ans The President is empowered to make a declaration of Financial Emergency, whenever he is satisfied that the financial stability or credit of India or any part of it is threatened.

(e) State the functions of the Commissioner for Scheduled Castes and Scheduled Tribes.

Ans The main functions of the Commissioner for Scheduled Castes and Tribes is (a) to investigate all matters relating to safeguards provided for Scheduled Castes and Scheduled Tribes under the Constitution; and (b) to report to the President upon the working of those safeguards at such intervals as the President may direct.

(f) How is the Chief Justice of a High Court in India appointed ?

Ans The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India.

I.A.S.—1988

Q 49 Discuss the methods by which the Parliament controls public expenditure in India *(About 250 words)*

Ans (1) Presentation of Budget . The Parliament has been vested with complete control over the finances of the Union Government. No expenditure can be incurred or taxes levied without the approval of the Parliament. Though the budget is formally prepared by the executive, the power to sanction the same rests with the Parliament. After the budget is presented, there is a general discussion of the budget as a whole in either House of the Parliament. This discussion is to be of general nature relating to Government policy and a review and criticism of the administration. No motion is made at this stage, nor is the Budget submitted to vote.

(2) Demands for Grants In the Lok Sabha after the general discussion, the estimates of expenditure other than the charged expenditure are placed in the form of Demands for Grants. A separate demand is ordinarily made for each Ministry. The Lok Sabha has the power to assent to a demand, to refuse it or to reduce it. It has no power to increase a demand or to alter the allocation of expenditure from one head to another. In regard to the expenditure charged on the Consolidated Fund of India, the power of the Lok Sabha is restricted only to the discussion of the various items, as these are not subject to vote.

(3) Appropriation and Finance Bill After the Grants are voted by the Lok Sabha, the Grants so made by Lok Sabha, as well as the expenditure charged upon the Consolidated Fund of India, are incorporated in an Appropriation Bill. It provides for the withdrawal of moneys from the Consolidated Fund of India. Similarly, the tax proposals of the budget are embodied in another bill known as the Finance Bill. Both these bills, being money bills are introduced in the Lok Sabha. After each bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha. The Rajya Sabha has power only to make recommendations within 14 days, but no power of amending or rejecting the bill. It is up to the Lok Sabha to accept or reject any recommendations of the Rajya Sabha. In any case the bill will be deemed to have been passed by both House of Parliament and it becomes law on receiving the assent of the President.

(4) Vote on Account Apart from the foregoing, the Lok Sabha has been empowered to make any grant in advance pending passing of Appropriation Bill. This is known as "Vote on Account". The Lok Sabha can also make grants to meet unexpected demands for moneys by votes of credit and exceptional grants. It can also sanction any additional, supplementary or excess grants.

(5) **Public Accounts Committee** . The power of the Parliament about financial matters does not end with the granting of money to the executive. It also includes power to ensure that the expenditure sanctioned by it has been actually spent in the manner intended in the Appropriation Bill. For this purpose, the Parliament appoints a Public Accounts Committee, comprising 21 members from both Houses of Parliament. It examines the audit report presented by the Comptroller and Auditor General of India and then submits its own recommendations. The report is discussed in the Parliament and effective measures are taken.

Q 50 What do you consider are the problems of national integration in India ? Suggest suitable remedies .

(About 250 words)

Ans National Integration It means that the people of India, irrespective of their language, caste, religion, state and social customs, must develop a spirit of common national consciousness and maintain a national solidarity in their outlook and attitude.

Problems of National Integration There are, according to a Census Report, nearly 849 dialects and 25 major languages spoken in India. Language is something more than a media of communication, so people attach themselves fanatically with their region.

(2) Diversity of social customs and ways of life do not allow them to mix up with the people of other regions.

(3) Different social groups live in different states which are at far-off distances and so the social contact is not possible. There are very few inter-regional marriages.

(4) The caste system and related problems such as untouchability, caste conflicts, reservation policy have been problem issues. Lack of political vision and courage have aggravated the situation. To get votes, politicians exploit divisive sentiments.

(5) The Constitution confers equality, justice, liberty and fraternity upon the people, but the regional disparities in economic development, growing unemployment, inequitable distribution of wealth and the pressure of population give rise to fissiparous tendencies like the 'sons of the soil' theory and agitations for separate statehood. There is a great gap between the theory and the practice. Nor has education been going on along the right lines to inculcate a sense of fraternity and national integration.

(6) Yet another problem is that our law enforcing machinery is still following the colonial pattern rather than adjusting itself to the needs of the new India.

Remedies : (1) Marriages among the people belonging to different regions must be encouraged.

(2) All-India sports and other such functions should be held in different regions of the country every year.

(3) Villagers of the different States should be taken to the other parts of the country and made to stay with their hosts for a few weeks.

(4) Effective steps should be taken to make Hindi popular among the masses in different states

(5) Mass communication media should be used to make the people of different regions familiar with the customs and traditions of other regions

(c) National political parties with secular' label should firmly avoid alliances with communal groups for the sake of catching votes.

(7) A massive effort should be made to educate people to develop the traditional Indian quality of tolerance—not of injustice and exploitation, but of other points of view and self-respect, besides inculcating the modern concepts of equality and scientific temper.

Q 52. What are the major commitments of the Constitution as incorporated in the Preamble ?

Ans (1) **Sovereignty** : The words of the Preamble 'We the people of India ... adopt, enact and give to ourselves this Constitution' reveal that the Constitution of India has been framed by the people and they are the source of political sovereignty. Thus popular sovereignty lies in the people.

(2) **Socialist** : That the goal of the Indian Polity is socialism has since been ensured by inserting the word 'Socialist' in the Constitution (42nd Amendment) Act, 1976.

(3) **Secular** : It means that the State protects all religions equally and does not itself have any religion as the State religion.

(4) **Democratic** : For the purpose the system of universal adult franchise has been introduced.

(5) **Republic** : By declaring republic, India has chosen the system of electing one of its citizens as its President—the head of the State—at regular intervals.

(6) **Justice** : The essence of justice is the attainment of the common good. It embraces the entire social, economic and political spheres of human activity.

(7) **Liberty** : It signifies not only the absence of any arbitrary restraint on the freedom of individual action but also creation of conditions which provide the essential ingredients necessary for the fullest development of the personality of the individual.

(8) **Equality** It signifies equality of status and equality of opportunity to every one to develop his or her capacities

(9) **Fraternity** This is necessary in order to ensure both the dignity of the individual and the unity and integrity of the nation

Q 53 Explain the concept of Minorities in the Indian Constitution and mention the safeguards provided therein for their protection.

Ans Minorities : According to the Consitution of India, the concept of minorities incorporates the groups of people differing from the others in religion, culture and language, numerically less in strength than the majority. Thus there are religious, linguistic and cultural minorities. Furthermore, as it is the numerical point of view that is taken into consideration, the term is used in a relative sense, i.e., a minority's position at state and national levels may differ. Special protection measures apply to minorities whether at the state level or at the national level, i.e., even if a group is a majority at national but a minority at state level, it will have special cultural and linguistic status in that State.

Safeguards : (1) Right to maintain religious and charitable institutions and manage religious affairs without state interference.

(2) Linguistic and cultural minorities have right to conserve their language, script or culture.

(3) Religious and linguistic minorities may establish and administer their own institutions and avail of State grant without discrimination.

(4) A minority language may be recognised as one of the official languages in a State.

(5) Linguistic minorities have the right to instruction in their mother-tongue at primary education stage

(6) Special Officer (Minorities Commission) for linguistic minorities to report on their status.

Besides these, the state does not discriminate on the basis of religion, culture, etc., in matters of public appointments and employment

Q 54 Examine the role and functions of the State Governor as set out in the Constitution of India.

Ans. (1) Legislative Powers : The State Governor summons, fixes the time and place for the meeting of the Legislature. He addresses the meeting of the Legislature at the commencement of session once in a year. He can send messages to the State Legislature. Every bill passed by the Legislature must have his assent.

He has the power to promulgate an ordinance whenever the Legislature is not in session

(2) **Executive Powers** He appoints the Chief Minister of the State and other Ministers on the advice of the Chief Minister. He also appoints the Chairman and members of the State Public Service Commission. He acts as the agent of the Centre during emergency

(3) **Financial Powers** No money bill can be introduced in the Legislative Assembly of the State except on the Governor's recommendations. The State Contingent Fund is at his disposal and he can make advances out of it to meet the unforeseen expenditure pending its authorisation by the State Legislature

(4) **Judicial powers** : He has the power to grant pardons, and suspend, remit or commute sentences where the offence is under a law relating to matters within the executive competence of the State.

(5) **Discretionary Powers** (i) He determines whether the Government of a State can or cannot be carried on in accordance with the provisions of the Constitution. If he feels that it cannot be so carried on, he can make a report to that effect to the President under Art. 356(1). (ii) If after the general elections, no single party is able to have a clear majority or post-election splits reduce the majority to a minority, the Governor can use his own discretion to determine which party has the best chances of forming a stable government (iii) In case the Governor comes to conclusion that none of the parties represented in the Legislature is in a position to form a stable government, he can, in his discretion, dissolve the Legislature and order fresh elections. (iv) The Governor can reserve a bill or bills passed by the State Legislature for consideration of the President

Q. 55. Explain the constitutional responsibilities of the Election Commission of India.

Ans. The Election Commission is an independent body set up by the Constitution under Article 324. Its main functions are .

- (i) to superintend, direct and control the preparation of electoral rolls for elections ,
- (ii) to conduct all elections to Parliament and State Legislatures and elections to the offices of President and the Vice President :
- (iii) to advise the President regarding disqualification of the Members of Parliament, etc , and

- (iv) to examine the returns of election expenses filed by the candidates.

Q. 56. Answer the following :

- (a) What do you understand by 'zero hour' in the conduct of business in Parliament ?

Ans. *Zero Hour* is the time allotted in the Parliament after Question Hour every day for miscellaneous business, i.e., call attention notice, adjournment motions, etc.

- (b) State the privileges of the Members of Parliament.

Ans. The Privileges of the Members of Parliament are : (i) freedom of speech ; (ii) right of the House to publish its debates and speeches without any liability for libel and like , (iii) freedom from arrest , (iv) exemption from attendance as witness , (v) freedom from legal action for anything said in the Parliament.

- (c) Explain the significance of Art. 370 in the Constitution of India.

Ans. Article 370 gives the State of Jammu and Kashmir a special constitutional position within the Indian Union. This recognizes the special circumstances in which the State acceded to India and the Govt of India's assurance to the effect that the accession would be subject to the confirmation by the people of J & K acting through the Constituent Assembly.

- (d) What is the objective of the Commission of Inquiry (Amendment) Bill of 1986 ?

Ans. The objective was for the government to be saved from placing the reports of certain commissions before Parliament if they involved sensitive issues affecting the security and integrity of the country. It was meant to prevent avoidable tension. It has since been repeated.

- (e) What is meant by the collective responsibility in Parliamentary democracy ?

Ans. In the Parliamentary system, the cabinet is collectively responsible to the Legislature. If the Lower House expresses no-confidence in any single minister, the entire Ministry has to resign.

- (f) Why is India called a Republic ?

Ans. India is called a Republic, because the source of all authority under the Constitution is the people of India and there is no subordination to any external authority. It is a government of the people, by the people and for the people.

I.A.S.—1989

Q 57. Define the duties and powers of the Comptroller and Auditor-General of India in regard to Audit and show how the Constitution provides for his independence from the Executive Control
(About 250 words)

Ans Comptroller and Auditor-General of India

The Comptroller and Auditor-General of India acts as a guardian of the public finance and ensures that money is spent only in accordance with the proper sanction of the legislature. His main duties and powers in regard to audit are

- (i) to audit the accounts of the Union as well as State Governments ;
- (ii) to audit all transactions of the Union and State Governments with regard to debt, deposits, sinking funds, advance, suspense accounts and remittances ,
- (iii) to audit all trading, manufacturing, profit and loss accounts as well as the balance sheets of the Union and State Governments ,
- (iv) to ensure that money is spent in accordance with the budgetary provisions
- (v) to undertake the duty of audit of accounts of local bodies, if requested by the President and
- (vi) to submit annual report to the President/Governor on accounts of the Centre/State, for consideration by the Parliament/State Legislature.

Independence of Audit

The independence of the Comptroller and Auditor-General has been sought to be ensured by the following provisions of the Constitution

- (1) Though appointed by the President, the Comptroller and Auditor-General of India can be removed from his office only after an address of each House of Parliament, supported by a majority of total membership of that House and not less than 2/3 of the members of the House present and voting.
- (2) The salary and the conditions of service of the Comptroller and Auditor General of India cannot be varied to his disadvantage after his appointment.

(3) He is not eligible for further appointment after his retirement so that he may have no inducement to please the Executive of the Union or of any State

(4) The salaries, etc., of the Comptroller and Auditor-General of India and his staff are charged upon the Consolidated Fund of India and are thus non-votable.

(5) The reports of the Comptroller and Auditor General relating to Accounts are submitted to the President, who causes them to be laid before the Parliament.

Q 58. Discuss the power, privileges and immunities of the Indian Parliament *(About 250 words)*

Ans. Powers of the Parliament

(1) **Legislative Powers** . Parliament enjoys the right to legislate on all subjects enumerated in the Union List as well as the Concurrent List. Under certain circumstances, Parliament can also legislate on subjects enumerated in the State List.

(2) **Financial Powers** . Parliament has been vested with complete control over the finances of the Union Government. No expenditure can be incurred or taxes levied without the approval of Parliament.

(3) **Control over Executive** . In Parliamentary System of Government provided under the Indian Constitution, the Council of Ministers, which is the real executive, stays in office as long as it enjoys the confidence of the Parliament. Parliament reserves the right to criticise the policy of the Government and seek information on all matters falling under the jurisdiction of the Union Government.

(4) **Constituent Powers** . Parliament of India has been vested with the extensive powers to amend the Constitution. Leaving apart certain provisions of Constitution concerning the federal character, Parliament can amend the Constitution either by a simple majority or by two-thirds majority of its members, present and voting.

(5) **Miscellaneous Powers** . Parliament elects the Vice President of India and can initiate impeachment proceeding against the President. All elected members of Parliament take part in the election of the President along with the elected members of the State Legislative Assemblies. Parliament also enjoys power to recommend the removal of the judges of the Supreme Court and High Court to the President. The Proclamation of Emergency made by the President also needs the approval of Parliament.

Privileges of Parliament

The privileges, powers and immunities of a House of Parliament are

- (i) that no court can look into the validity of its proceedings
- (ii) no Officer or Member of Parliament is answerable to any court for exercise of the powers vested in him under the Constitution,
- (iii) to make its own rules for regulating its procedure and business;
- (iv) to regulate recruitment and conditions of service of persons appointed to the Secretariat of the House, and
- (v) to punish any person for Contempt of the House and breach of the privileges of Members, Committees and the House.

Q 59 Examine the powers and functions of the Speaker of Lok Sabha
(About 150 words)

Ans Speaker is the presiding officer of Lok Sabha. He has been vested with extensive powers with regard to the conduct of the work of the House. He presides over the meetings of the House and regulates its proceedings. He is responsible for maintenance of decorum in the House. All questions regarding procedure and admissibility of various motions are decided by him. He can fix the time limits for speeches by various members. He puts the questions to the vote of the House and announces the decisions. In case of persistent disorder he can adjourn the House. Likewise, he can adjourn the House due to lack of quorum. He can get a member of the House forcibly removed from the House if he is persistently disturbing the proceedings. He does not take part in the voting. However, in case of a tie he has a casting vote. He acts as the guardian of the rights and privileges of the members. He appoints Chairmen of all the Committees of the House and acts as the chief link between the House and the President.

Q 60 Explain the relevance of Rajya Sabha as a second chamber in the federal set-up of the Indian Parliamentary System
(About 150 words)

Ans The Constitution of India has provided for a federal system of government and accordingly provided for an Upper House, in which the various units were accorded representation. But realising that a parliamentary system of government had been adopted in the country, the framers of the Constitution accorded an

inferior status to Rajya Sabha. This is evident from the fact that in legislative, financial and executive fields Rajya Sabha has been assigned an inferior position. In matters relating to amendment of the Constitution, election of the President or the Vice-President, impeachment of the President, approval of proclamations of a state of emergency, removal of judges of the Supreme Court, etc., it has been given co-equal powers with the Lok Sabha. In addition Rajya Sabha has been assigned certain exclusive powers with regard to creation of new All-India Services, authorisation of Parliament to legislate on a state subject in national interest, etc. But on the whole they assigned a secondary position to Rajya Sabha in keeping with the spirit of Parliamentary democracy where the final authority must rest with the popular House, i.e., Lok Sabha.

Q. 61. Discuss the relationship between the Executive and the Legislative wings with reference to India (About 150 words)

Ans. Relations between Executive and Legislature

India has adopted a Parliamentary system of government in which a close relationship exists between the legislative and the executive wings of the Government. All the members of the Council of Ministers are taken from the two Houses of the Parliament. They are accountable for their working to the Parliament and stay in office as long as they enjoy the confidence of the legislature. The legislature can seek clarification regarding policy and actions of the executive. But in actual practice the executive completely dominates the legislature. Most of the important proposals are initiated in the House by the ministers and with the support of the majority party they get these proposals enacted into laws. Further, they can seek dissolution of Lok Sabha (legislature) in case it obstructs its working or passes a vote of no confidence. The legislative and executive wings do work in close cooperation. But though in theory the legislative wing stands on a higher pedestal, in actual practice the executive controls the legislature.

Q. 62. Describe briefly the organisation and functions of the committee system in Parliament. (About 150 words)

Ans. Committee System in Parliament

Like other legislative bodies, the Indian Parliament also makes use of committees for the discharge of its duties. In fact the work of the Parliament has increased so much that it cannot be done without the committees. There are, broadly speaking, two types of committees viz., the standing committees and the ad hoc committees. The standing committees work on regular basis, while the ad hoc committees are constituted for specific purposes and cease to exist after they have finished their work. The strength of different committees ranges from 9 to 30. These members are usually picked up from amongst the members of Parliament in the proportion in which

their political parties are represented in the Parliament. Thus the committees are virtually replicas of the Parliament. The committees help the legislature in the disposal of its work and in exercising necessary control over the executive which the Parliament as a large body cannot exercise

Q 63 Answer the following (In about 25 words each)

(a) **What is meant by a Cut Motion in Parliament ?** Mention its different kinds.

Ans *Cut Motion* is a motion moved by members of Opposition in the legislature to reduce the Demand for Grant. It can be divided into - (i) Disapproval of Policy Cut - (ii) Economy Cut ; (iii) Token Cut

(b) **Discuss the value of the Consultative Committees attached to the different Ministers of the Government of India.**

Ans The Consultative Committees composed of members of Parliament periodically meet to exchange ideas and information on various problems and issues falling within the jurisdiction of the department concerned. These committees operate informally and are not bound by any rules and regulations. They are presided over by the concerned ministers who apprise the members about the problems and policies of the government. The main purpose of such committees is to educate the members and foster closer relations between the government and the members of Parliament.

(c) **Distinguish between a starred question and an unstarred one asked in the Parliament**

Ans The starred questions (which are distinguished by an asterisk * mark) are those questions for which a member seeks an answer from the concerned Minister on the floor of the House. Usually such questions are followed by supplementary questions relevant to the main question and arising out of the reply given by the Minister. On the other hand, the unstarred questions are those questions to which written answers are laid on the table of the House by the concerned Ministers.

(d) **How is breach of 'Parliamentary privileges' different from contempt of the House ?**

Ans The term 'Parliamentary Privileges' refers to powers, other than legislative possessed by the two Houses and their members, to discharge their functions properly. The privileges available to members include freedom of speech and freedom from arrest during sessions. On the other hand, the contempt of the House is an act which obstructs the House or its dignity in the performance of its functions. The person charged with contempt of the House has either to apologise to the House or can be awarded such punishment as the House may decide through a motion.

(e) **There are certain spheres where Rajya Sabha alone has the authority. What are these?**

Ans. Rajya Sabha has been vested with certain exclusive powers, which are not available to Lok Sabha. These include the following: (i) It can declare that it is in the national interest that the Parliament should legislate on a subject listed in the State List. When Rajya Sabha passes such a resolution by a two-thirds majority, it becomes lawful for the Parliament to enact laws with respect to that matter. (ii) With regard to the setting up of All-India Services also Rajya Sabha has exclusive powers. It is only after the Rajya Sabha passes a resolution recommending the creation of a new All-India Service, that necessary Bill to this effect can be introduced in Lok Sabha.

(f) **Explain what is a Point of Order? When can it be raised?**

Ans. 'Point of Order' is a point relating to the interpretation or enforcement of the Rules of Procedure or such Articles of the Constitution as regulate the business of the House. These are raised in the House for the decision of the Chair.

I.A.S.—1990

Q 64 The emphasis in modern federations should not be on division and separation but on Collaboration and on Co-operation." Discuss the statement in the context of the Indian Polity.

(About 250 words)

Ans. The Constitution of India provides for a Federal System of Government, though the term 'federation' has nowhere been used in the Constitution. On the other hand, Article 1 of the Constitution describes India as 'Union of States', an expression which implies two things. Firstly, unlike USA, the Indian Federation is not the result of agreement between the units and the units have no right to secede from the Federation. In fact, the units of the 'Indian Federation' have no independent existence of their own. The Parliament can alter their names and territories even without their consent.

Federalism is a system of government which seeks to reconcile national unity with local autonomy. It is based on the principle of division of functions between the Centre and the States, with each operating within its respective sphere. But in actual practice in most of the federations of the world, the Centre has become powerful than the units and has a tendency to dominate them. In India also this tendency persists. Not only has the Constitution divided the powers between the Centre and the States so as to give a special tilt in

favour of the Centre, in actual practice the Centre has come to acquire some of the powers of the States as well. As a result, often a demand is made that this trend must be checked and the States must be permitted greater autonomy within their spheres. Instead of the Centre dominating the scene, the federal government and the various units should operate on the principle of collaboration and cooperation. The Sarkaria Commission, which examined the question of Centre State relations, also favoured a check on the tendency of the Centre to unduly interfere in the sphere of the States and pleaded for greater cooperation between the Centre and the States. However, it would be too much to say that the principles of division and separation, which form the basis of the federal system, should be abandoned. In the absence of these principles the federal system will get converted into a unitary one. What is really needed is that two sets of government should not pull in opposite directions but work in cooperation with each other in the larger interest of the country.

Q 65 Review the present electoral system in India and suggest modifications to ensure better and healthier polity.

(About 250 words)

Ans Electoral System

The present electoral system of India is largely based on the Representation of People's Act of 1950 and 1951. In India all citizen above the age of 18 years, who are otherwise not disqualified, are entitled to act as voters. Each citizen can be registered as a voter in only one constituency. The task of preparation, revision, correction of electoral rolls and conduct of elections is entrusted to the Chief Electoral Officer in each state.

Soon after announcement of elections the process of nominations starts. While filling their nominations, the candidates have to deposit a stipulated security which is forfeited if they fail to poll one-sixth of the total valid votes polled in the constituency. The political parties also play an important role in the election process and serve as a vital link between the people and the government. It is obligatory for the political parties to register themselves with the Election Commission. On the eve of election, the various political parties issue election manifestoes, outlining their policies and programmes. The people try to judge the candidates of various parties on the basis of their manifestoes.

Suggestions for Improvement

The electoral system in India suffers from series defects. Often political parties do not get seats in proportion to the votes polled by them. Caste, religion and regional considerations often influence the voters. On account of high rate of illiteracy, the voters are not

able to make proper use of their votes. The following suggestions are made to remove the drawbacks and loopholes of the electoral system :

- (i) breach of code of conduct by the parties and candidates should be treated as a corrupt practice ;
- (ii) introduction of state funding of elections in kind ;
- (iii) simultaneous one-day elections to Lok Sabha and State Assemblies ,
- (iv) introduction of electronic machines in voting process ;
- (v) strict disposal of election petitions within six months, as provided in the law ,
- (vi) rotation of reserved seats for Scheduled Castes and Scheduled Tribes ; and
- (vii) non-eligibility of Chief Election Commissioner for any office of profit on completion of his term

Q. 67 What are the major recommendations of the National Perspective Plan for Women, 1988 and what are the relevant recommendations as envisaged in the Constitutional Amendment Bill (64th Amendment) ? *(About 150 words)*

Ans The National Perspective Plan for Women, 1988, made numerous recommendations for removing sexual inequality in all aspects of life. It urged the framing of a uniform civil code by the year A D 2000 and more egalitarian legal provisions with regard to property. It called for the banning of amniocentesis, injectible contraceptives and other contraceptives banned in the West. It recommended a special drive for the immunisation of adolescent girls. In the field of rural development it recommended the extension of credit facilities to women and extensive retraining of women workers to enable them to face the demands of growing mechanisation which mostly displaces women workers. It also called for the setting up of creches and the extension of maternity benefits to women workers. The employment of women in single teacher schools, free uniforms and textbooks, scholarships and universal pre-school facilities were part of its recommendations in the field of education. The plan also held that media should guard against both the outright degradation of women and sexual stereotyping. The plan also recommended set up of women's cells in all ministries and giving 30 per cent reservation for women in panchayats and other local government structures. The Constitutional Amendment Bill (64th Amendment) sought to give constitutional sanction to reservations for women in panchayats and local government structures. However, the bill could not be passed.

Q. 68 Explain the nature and extent of discretionary powers and special responsibilities of the Governor in the Indian Constitution.
(About 150 words)

Ans. The Governor of a state is a constitutional ruler and is generally expected to act on the advice of the State Council of Ministers. However, in certain matters he can act in his personal discretion.

Discretionary Powers

The discretionary powers of the State Governor are as under ;

(1) He determines whether the Government of a State can or cannot be carried on in accordance with the provisions of the Constitution. If he feels that it cannot be carried on, he can make a report to the President under Art. 356(1)

(2) If after the general elections, no single party is able to secure a clear majority or post-election splits reduce the majority to a minority, the Governor can use his discretion to determine which party has the best chances of forming a stable government,

(3) In case the Governor comes to the conclusion that none of the parties represented in the legislature is in a position to form a stable government, he can in his discretion dissolve the legislature and order fresh elections

(4) The Governor can reserve a bill or bills passed by the State Legislature for consideration of the President.

Special Responsibilities

When a state is placed under President's rule, the Governor assumes a special role and carries on the administration of the state on behalf of the President,

Q 69. Describe the constitutional position of the Civil Services in India. How is their neutrality and independence sought to be achieved ?
(About 150 words)

Ans. Constitutional Position of Civil Services

Under Art 312 of the Constitution, if the Rajya Sabha declares by resolution supported by not less than two-thirds of its members present and voting, that it is necessary or expedient to create an All India Service, common to the Union and the States, Parliament may, by law, create such a service and regulate the recruitment and conditions of service of persons appointed to any such service.

The Indian Administrative Service and the Indian Police Service, which were in existence at the commencement of the Constitution, are deemed to be All-India Services created by the Parliament.

The All India Service Act was passed by Parliament in 1950, and detailed rules and regulations under the Act have since been promulgated. The recruitment to All India Services, namely, I A S, I F S, L P S, etc., is made by a constitutional body, viz., U P S C. on the basis of a competitive examination supplemented by a *viva voce* test.

Safeguards for Services

Article 310(1) of the constitution states, that every persons, who holds a civil post under the Union, holds office during the pleasure of the President. It means that any Government servant may be dismissed at any time and on any ground, subject to the constitutional safeguards incorporated in Article 311

Article 311 of the Constitution, however, provides that no person holding a civil post shall be dismissed or removed from service.

- (a) by an authority subordinate to that by which he was appointed,
- (b) except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges

Q. 70. What are the reasonable restrictions' mentioned in the Indian Constitution accompanying the Fundamental Rights ?

(About 150 words)

Ans Restrictions on Right to Freedom

(1) The freedom of speech and expression does not confer upon an individual any licence to commit illegal or immoral acts or to incite others to overthrow the established government by force or unlawful means.

(2) The freedom of assembly is subject to the condition that assembly must be peaceful and without arms

(3) The freedom to form association does not entitle any group of individuals to enter into a criminal conspiracy to organise or form an association dangerous to the public peace or to resort to

illegal strikes, or to create public disorder, or to undermine the sovereignty or integrity of India.

(4) The right to move freely throughout India is subject to the restrictions imposed by the State for the protection of any Scheduled Tribe(s)

(5) The right to carry on any occupation, trade or business is subject to any law laying down qualifications for carrying on any profession,

Exceptions to the Right to Equality

(1) The state may make special provisions for women and children.

(2) The state can also make special provisions for the advancement of any socially and educationally backward classes of citizens or for Scheduled Castes and Scheduled Tribes.

(3) The Parliament may make law prescribing residence within the state as a condition for particular classes of employment or appointment under any authority specified in First Schedule or any local or other authority.

(4) The state may make provisions for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.

(5) Offices connected with a religious or denominational institution may be reserved for members professing that particular religion or belonging to the particular denomination to which the institution relates

Q 71 Answer the following: (In about 25 words each)

(a) **Explain the significance of Prasar Bharati Corporation in the context of modern mass media**

Ans On Sept 6, 1990, Parliament passed the Prasar Bharati (Broadcasting Corporation of India) Bill. it provides for :

- (i) an autonomous body to run the electronic media ;
- (ii) insulating the AIR/Doordarshan from the day-to-day interference by the Government of India , and
- (iii) placing electronic media under the watchful eyes of a Parliamentary Committee

(b) **What is contempt of Parliament? Mention its various kinds.**

Ans Contempt of Parliament means showing disrespect to the Parliament for which it can punish the defaulter. This contempt

can be shown by the members by giving wrong information on the floor of the house ; by the visitors by disturbing its proceedings by shouting slogans or throwing leaflets, etc., and by the media—press etc., by casting aspersions on the motives of Parliament, etc.

(c) **Describe the significance of Article 370 of our Constitution.**

Ans. Article 370 of the Indian Constitution accords special status to the State of Jammu & Kashmir. It assures the Kashmiris that their distinct identity would be maintained and no order relating to matters specified in the Instrument of Accession of the State shall be issued except in consultation with the government of the state.

(d) **Describe the procedure for the creation of Second Chamber in a State.**

Ans. The Second Chamber of the State legislature can be created by the Parliament through an Act if the Legislative Assembly of the concerned state passes a resolution by two-thirds majority of the members of the Assembly present and voting, which should also be the simple majority of the total membership of the Assembly, that they want a second chamber.

(e) **Define the writ of Mandamus. Explain its importance.**

Ans. A writ of *Mandamus* is an order from a superior court to a lower court or tribunal or public authority to perform an act which falls within its duty. It is issued to secure the performance of public duties and to enforce private rights withheld by the public authorities.

(f) **What are the functions of the Business Advisory Committee of Lok Sabha ?**

Ans. This Committee comprising 15 members is formed at the beginning of Lok Sabha's session and is concerned with the planning and regulation of the business of the House. It also advises the House regarding the allocation of time for the discussion of various issues.

12

Objective Tests

GENERAL INTRODUCTION

Of late, there has been a tendency to set objective-type questions in Indian Constitution in U.P.S.C., Staff Selection commission, Banking Boards, L.I.C., G.I.C., Railway Board and other Competitive examinations. In order to give the candidates an idea about such tests, we give herewith specimens of objective type questions in Indian Constitution. It should be clearly understood that comprehensive knowledge is very essential before a candidate can attempt such types of questions. The candidates are advised to study the text of "Indian Constitution" for this purpose.

EXAMINATION QUESTIONS

Directions : Each of the following questions is followed by four suggested answers. Select the correct answer and put a cross (X) in the answer box (□) against the correct response.

I

[From I.A.S. Exam., 1979]

1. Which are the two states next to U.P. having the maximum representation in the Lok Sabha ?
 - (a) Madhya Pradesh and Tamil Nadu ☐
 - (b) Bihar and Madhya Pradesh ☐
 - (c) Bihar and Maharashtra ☐
 - (d) Madhya Pradesh and Maharashtra. ☐
2. The members of the Constituent Assembly were
 - (a) elected by Provincial Assemblies. ☐
 - (b) elected directly by the people. ☒
 - (c) nominated by the Government. ☐
 - (d) only representatives of princely states. ☐
3. What is the power of Rajya Sabha regarding Money Bills ?
 - (a) It can amend it. ☐ (b) It can reject it. ☐
 - (c) It can withhold the bill for 14 days to make recommendations. ☒
 - (d) It has no power regarding Money Bills. ☐

4. The Constitution (44th Amendment) (re numbered as 43rd Amendment) ☐
 (a) ensures the right to property. ☐
 (b) ensures the press freedom. ☐
 (c) limits the powers of the Government to proclaim internal emergency ☐
 (d) restores to the High Courts and to the Supreme Court their jurisdiction to consider the validity of any Central or State law ☐
5. Which of the following is contained in the Concurrent List ? ☐
 (a) Forests ☐ (b) Education ☐
 (c) Police ☐ (d) Agriculture ☐
6. The principal language of Nagaland is ☐
 (a) English ☐ (b) Naga. ☐
 (c) Assamese ☐ (d) Khasi. ☐
7. In a parliamentary system the executive is responsible ☐
 (a) directly to the people ☐ (b) to legislature ☐
 (c) to judiciary. ☐ (d) None of the above. ☐
8. The Vice President of India is elected by ☐
 (a) the people directly ☐
 (b) the members of Lok Sabha and Rajya Sabha ☐
 (c) the members of Rajya Sabha only. ☐
 (d) the members of Lok Sabha, Rajya Sabha and State Legislatures ☐
9. Which language has been added recently to the Eighth Schedule of the Constitution of India ? ☐
 (a) Urdu ☐ (b) Sanskrit ☐
 (c) Sindhi ☐ (d) Assamese ☐
10. Which of the following is *not* included in the list of fundamental duties in the Constitution ? ☐
 (a) To safeguard public property and to abjure violence ☐
 (b) To uphold and protect the sovereignty, unity and integrity of India ☐
 (c) Secularism ☐
 (d) to abide by the Constitution and its ideals ☐
11. The President of India has the same constitutional authority as the ☐
 (a) British Monarch. ☐ (b) President of U S A. ☐
 (c) President of Egypt. ☐ (d) President of Russia. ☐

2. A candidate to become a member of Lok Sabha should *not* be below
(a) 21 years ☐ (b) 25 years. ☐
(c) 30 years. ☐ (c) 35 years. ☐
3. Which of the following is *not* included in the Fundamental Rights in the Constitution of India ?
(a) Right to Property ☐
(b) Right to freedom of religion ☐
(c) Right to vote in all elections ☐
(d) Right to freedom of speech and expression. ☐
4. The word 'secular' denotes ☐
(a) keeping away from all religions. ☐
(b) freedom of religion and worship to all citizens' ☐
(c) belief in one God ☐
(d) practising different religions. ☐
5. Who is authorised to decide over a dispute regarding disqualification of Members of Parliament ?
(a) Election Commission ☐
(b) Speaker of the Lok Sabha ☐
(c) President of India ☐
(d) Committee set-up by the Parliament. ☐
16. Which of the following states in India has no Legislative Council ?
(a) Tamil Nadu ☐ (a) Bihar ☐
(c) West Bengal. ☐ (d) Maharashtra. ☐
17. The most controversial provision in the 42nd Constitutional amendment is ☐
(a) Supremacy of Parliament. ☐
(b) Enumeration of ten Fundamental Duties. ☐
(c) Term of Lok Sabha and Legislative Assemblies. ☐
(d) Primacy to the Directive Principles over Fundamental Rights. ☐
18. A case of dispute in the Presidential election is referred to ☐
(a) Chief Election Commission ☐
(b) Supreme Court. ☐
(c) Parliament ☐ (d) None of these. ☐

19. The Panchayati Raj administration is primarily aimed
- (a) to increase agricultural production ☐
 - (b) to ensure rural development. ☐
 - (c) to work for the upliftment of Harijans. ☐
 - (d) to arouse in the people of each area intensive and continuous interest in the community development programme. ☐
20. Panchayati Raj, as introduced in 1959, operates at
- (a) Samiti and block levels. ☐
 - (b) Block and district levels ☐
 - (c) Samiti and district levels. ☐
 - (d) Village, block and district levels ☐
21. Liberty, Equality and Fraternity this inspiration was derived from the
- (a) American Revolution ☐ (b) French Revolution. ☐
 - (c) Russian Revolution. ☐ (d) None of the above. ☐
22. A Lok Sabha member represents a population of at least
- (a) 25,000 people ☐ (b) 50,000 people ☐
 - (c) 10,00,000 people. ☐ (d) 5,00,000 people. ☐
23. Which of the following states has no Panchayati Raj set-up ?
- (a) Nagaland ☐ (b) Assam ☐
 - (c) Kerala ☐ (d) West Bengal. ☐

II

[From I A S Exam 1980]

24. All responsibilities regarding elections in India are entrusted to the
- (a) President. ☐ (b) Prime Minister. ☐
 - (c) Chief Justice ☐
 - (d) Chief Election Commissioner. ☐
25. In which case a joint session of the Lok Sabha and Rajya Sabha is convened by the President ?
- (a) When a Finance Bill is to be passed by the Lok Sabha and Rajya Sabha with 2/3 majority. ☐
 - (b) to impeach the President. ☐
 - (c) if after a bill has been passed by one House and transmitted to the other House and the bill is rejected by the other House. ☐
 - (d) All of the above. ☐

26. The 44th Amendment to the Constitution speaks of the
- (a) right to property as no longer a fundamental right. ☐
 - (b) suspension of individual liberty during emergency. ☐
 - (c) barring the courts from interfering in the disputes regarding the election of Prime Minister. ☐
 - (d) giving more importance to Directive Principles over Fundamental Rights. ☐
27. The Constitution (45th Amendment) Bill passed by the Parliament extended reservation of seats for scheduled castes and scheduled tribes in the Parliament and State Assemblies up to
- (a) 1980 ☐ (b) 1985 ☐
 - (c) 1990 ☐ (d) 2000. ☐
28. The Finance Commission is appointed after every
- (a) 2 years ☐ (b) 5 years ☐
 - (c) 7 years ☐ (d) 10 years ☐
29. Council of Ministers of the Union of India is responsible to the
- (a) Parliament ☐ (b) President. ☐
 - (c) Prime Minister. ☐ (d) Chief Justice ☐
30. A candidate to become a member of Lok Sabha should not be below
- (a) 21 years ☐ (b) 25 years ☐
 - (c) 30 years ☐ (d) 35 years. ☐
31. The word "secular" denotes
- (a) keeping away from all religions. ☐
 - (b) belief in one God. ☐
 - (c) freedom of religion and worship to all citizens. ☐
 - (d) practising different religions. ☐
32. What is the maximum period for which the Parliament may not meet ?
- (a) Six months ☐ (b) One year ☐
 - (c) Two years ☐ (d) Three years ☐
33. Parliament consists of
- (a) Prime Minister and other Ministers. ☐
 - (b) President, Prime Minister and other Ministers ☐
 - (c) President, Rajya Sabha and Lok Sabha ☐
 - (d) President, Chief Justice and Lok Sabha. ☐

34. Rajya Sabha can delay the Money Bill passed by the Lok Sabha for a period not exceeding
- | | | |
|--------------|--------------------------------------|--------------------------|
| (a) 9 days | <input type="checkbox"/> (b) 14 days | <input type="checkbox"/> |
| (c) 15 days. | <input type="checkbox"/> (d) 30 days | <input type="checkbox"/> |

III

[From I A S Exam, 1981]

35. The Constitution of India was actually ready in
- | | | |
|-----------|------------------------------------|--------------------------|
| (a) 1947. | <input type="checkbox"/> (b) 1948. | <input type="checkbox"/> |
| (c) 1949. | <input type="checkbox"/> (d) 1950. | <input type="checkbox"/> |
36. Which famous judgement restricts the authority of the Parliament to amend the Constitution so as not to damage or destroy its basic essential features or its basic structure?
- | | |
|---------------------------------------|--------------------------|
| (a) Golaknath case | <input type="checkbox"/> |
| (b) Balananda Saraswati case | <input type="checkbox"/> |
| (c) Minerva Mills Ltd and others case | <input type="checkbox"/> |
| (d) Keshvanand Bharati case | <input type="checkbox"/> |
37. Which of the following High Courts covers more than one State/Union Territories?
- | | | |
|--------------|---|--------------------------|
| (a) Delhi | <input type="checkbox"/> (b) Allahabad | <input type="checkbox"/> |
| (c) Guwahati | <input type="checkbox"/> (d) None of these. | <input type="checkbox"/> |
38. Panchayati Raj System was introduced in the year
- | | | |
|-----------|------------------------------------|--------------------------|
| (a) 1947. | <input type="checkbox"/> (b) 1952. | <input type="checkbox"/> |
| (c) 1959. | <input type="checkbox"/> (d) 1977. | <input type="checkbox"/> |
39. 'Grant-in-aid' is given to the States for
- | | |
|---|--------------------------|
| (a) improving the Centre-State relationship. | <input type="checkbox"/> |
| (b) reducing regional imbalances | <input type="checkbox"/> |
| (c) improving the development of the backward areas. | <input type="checkbox"/> |
| (d) various development schemes and rehabilitation purposes | <input type="checkbox"/> |
40. The disputes regarding the election of the President of India can be decided by
- | | |
|---------------------------------|---|
| (a) Supreme Court. | <input type="checkbox"/> (b) Election Tribunal. |
| (c) Chief Election Commissioner | <input type="checkbox"/> |
| (d) None of the above. | <input type="checkbox"/> |
41. Rajya Sabha is dissolved once in
- | | | |
|--------------|---|--------------------------|
| (a) 2 years. | <input type="checkbox"/> (b) 3 years. | <input type="checkbox"/> |
| (c) 6 years. | <input type="checkbox"/> (d) It is never dissolved. | <input type="checkbox"/> |

42. The Directive Principles of the State Policy are contained in
 (a) Part I of the Constitution ☐
 (b) Part II of the Constitution. ☐
 (c) Part III of the Constitution. ☐
 (d) Part IV of the Constitution ☐
43. Which type of Parliamentary system China has ?
 (a) One party ☐ (b) Two party ☐
 (c) Multi party ☐ (d) None of the above. ☐
44. Which amendment to the Constitution gave primacy to the Directive Principles over the Fundamental Rights ?
 (a) 36th Amendment ☐ (b) 38th Amendment ☐
 (c) 40th Amendment ☐ (d) 42nd Amendment. ☐
45. Which of the following is *not* a Fundamental Right ?
 (a) Right to equality ☐ (b) Right to property ☐
 (c) Right against exploitation ☐
 (d) Right to freedom of speech and expression. ☐
46. By which amendment to the Constitution, the Fundamental Duties of the citizens were specified ?
 (a) 38th ☐ (b) 40th ☐
 (c) 42nd ☐ (d) 44th ☐
47. Acts and Regulations validated by Articles 31B are specified in . of Constitution.
 (a) Concurrent list ☐ (b) State list ☐
 (c) Union list ☐ (d) Ninth schedule ☐
48. On which date Constitution of India was adopted and enacted by the Constituent Assembly ?
 (a) August 15, 1947 ☐ (b) January 26, 1956 ☐
 (c) November 26, 1949 ☐ (d) January 30, 1948 ☐

IV

[From I.A.S. Exam., 1982]

49. The President of India is elected by the
 (a) Lok Sabha. ☐ (b) Rajya Sabha. ☐
 (c) The elected representatives of Lok Sabha and Rajya Sabha and State Legislative Assemblies. ☐
 (d) People directly. ☐

- 50 The concept of welfare state is included in the Constitution of India in the
- | | | | |
|--|--------------------------|-------------------------|--------------------------|
| (a) Preamble. | <input type="checkbox"/> | (b) Fundamental Rights. | <input type="checkbox"/> |
| (c) Fourth Schedule. | | | <input type="checkbox"/> |
| (d) The Directive Principles of State Policy | | | <input type="checkbox"/> |
- 51 How many members can be nominated to the Lok Sabha by the President?
- | | | | |
|-------|--------------------------|--------|--------------------------|
| (a) 2 | <input type="checkbox"/> | (b) 4. | <input type="checkbox"/> |
| (c) 5 | <input type="checkbox"/> | (d) 12 | <input type="checkbox"/> |
- 52 The dispute regarding the election of President of India is to be referred to the
- | | |
|---------------------------------|--------------------------|
| (a) Chief Election Commissioner | <input type="checkbox"/> |
| (b) Supreme Court. | <input type="checkbox"/> |
| (c) Parliament | <input type="checkbox"/> |
| (d) Attorney-General | <input type="checkbox"/> |
- 53 If the President wants to resign, he should address his resignation letter to the
- | | | | |
|----------------------------|--------------------------|---------------------|--------------------------|
| (a) Parliament. | <input type="checkbox"/> | (b) Prime Minister | <input type="checkbox"/> |
| (c) Chief Justice of India | <input type="checkbox"/> | (d) Vice-President. | <input type="checkbox"/> |
- 54 Council of Ministers of the Union of India is responsible to the
- | | | | |
|-----------------|--------------------------|--------------------|--------------------------|
| (a) Rajya Sabha | <input type="checkbox"/> | (b) Prime Minister | <input type="checkbox"/> |
| (c) President | <input type="checkbox"/> | (d) Lok Sabha. | <input type="checkbox"/> |
- 55, When a money bill is passed by the Parliament, the President has the power to
- | | | | |
|-----------------------------------|--------------------------|---------------|--------------------------|
| (a) amend it. | <input type="checkbox"/> | (b) reject it | <input type="checkbox"/> |
| (c) keep it with him. | | | <input type="checkbox"/> |
| (d) return it for reconsideration | | | <input type="checkbox"/> |
56. To uphold and protect the sovereignty, unity and integrity of India, a provision has been made in the
- | | |
|---|--------------------------|
| (a) Directive Principles of State Policy. | <input type="checkbox"/> |
| (b) Preamble to the Constitution | <input type="checkbox"/> |
| (c) Fundamental Duties. | <input type="checkbox"/> |
| (d) Fundamental Rights. | <input type="checkbox"/> |

57. The Finance Commission is appointed for
- (a) passing the money bills ☐
 - (b) approving money bills. ☐
 - (c) drafting the budget. ☐
 - (d) making recommendations to the President regarding the distribution between the Union and the States of net proceeds of the taxes. ☐
58. The 45th amendment to the Indian Constitution relates to
- (a) Minorities Commission. ☐
 - (b) Commission for Scheduled Castes and Scheduled Tribes ☐
 - (c) Extension of reservation of seats for Scheduled Castes and Scheduled Tribes ☐
 - (d) None of the above ☐
59. The Directive Principles of State Policy are included in which part of the Indian Constitution ? ☐
- (a) Part IV ☐ (b) Part III ☐
 - (c) Part II ☐ (d) Part I. ☐
60. Which one of the following is *not* a fundamental right ?
- (a) Freedom of speech and expression ☐
 - (b) Right to assemble peacefully and without arms ☐
 - (c) Right to property ☐ (d) Right to equality ☐
61. Panchayati Raj is mainly aimed at the
- (a) rural employment ☐
 - (b) agricultural and rural industries development ☐
 - (c) political awareness among villagers. ☐
 - (d) giving training to villagers for fighting elections ☐

V

[From I.A.S Exam, 1983]

62. In which of the following legislatures can a non-member be the Presiding Officer ?
- (a) Lok Sabha ☐ (a) Rajya Sabha ☐
 - (c) Vidhan Sabha. ☐ (d) None of the above. ☐
63. The Nagaland State of India cannot be termed a State because it lacks
- (a) linguistic homogeneity ☐
 - b) sovereignty ☐

- (c) bicameral Legislature. ☐
- (d) a High Court exclusively of its own. ☐
64. The greatest hallmark of personal liberty is
- (a) *Mandamus* ☐ (b) *Certiorari*.
- (c) *Quo Warranto*. ☐ (d) *Habeas Corpus* ☐
65. It is often said that the key to the minds of the makers of our Constitution lies in the
- (a) Preamble ☐ (b) Fundamental Rights ☐
- (c) Fundamental Duties ☐
- (d) Directive Principles of States Policy ☐
66. The maximum revenue source of village Panchayats is
- (a) government grants ☐ (b) sales tax ☐
- (c) voluntary help by village cooperatives ☐
- (d) local taxes on lands, fairs and festivals ☐

VI

[From I.A.S Exam., 1984]

67. Which one of the following is a part of the Preamble of the Constitution of India ?
- (a) We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist, Secular, Democratic Republic .. do hereby Adopt, Enact and Give to ourselves this Constitution ☐
- (b) We, the members of the Parliament, . . do hereby Adopt, Enact and give to ourselves this Constitution ☐
- (c) We, the members of Constituent Assembly, do hereby Adopt, Enact and give to ourselves this Constitution ☐
- (d) None of the above. ☐
68. Who decides whether a bill is a 'Money Bill' or not ?
- (a) Speaker of the Lok Sabha ☐
- (b) President ☐
- (c) Prime Minister ☐ (d) Vice-President. ☐
69. Being a non-member, who among the following can participate in the proceedings of either House of Parliament without having the voting right ?
- (a) Vice-President ☐ (b) Chief Justice of India ☐
- (c) Comptroller & Auditor General ☐
- (d) Attorney General. ☐

- 70 The Eighth Schedule of Indian Constitution contains the
 (a) Fundamental rights ☐ (b) Directive principles. ☐
 (c) A list of 15 languages recognised by the Constitution ☐
 (d) Number of States and Union Territories. ☐
71. Match the following
- | | |
|-------------------------------------|---------------------------------------|
| I. Chief Election Commissioner | (A) Elected by members of Rajya Sabha |
| II. Speaker of Lok Sabha | (B) Appointed by the President |
| III. Deputy Chairman of Rajya Sabha | (C) Elected by members of Lok Sabha |
- (a) I-A, II-B, III-C ☐ (b) I-B, II-C, III-A ☐
 (c) I-C, II-B, III-A ☐ (d) None of the above. ☐
- 72 Centre-State financial relations are looked after by the
 (a) Finance Commission. ☐ (b) Sarkaria Commission. ☐
 (c) Ministry of Finance. ☐ (d) Planning Commission ☐
73. Panchayati Raj system was adopted to
 (a) make people aware of politics. ☐
 (b) decentralise the power of democracy ☐
 (c) educate the peasants ☐
 (d) to introduce a form of local self-government at the village, block and district levels ☐
74. Democracy exists in India. Government is run by the elected representatives of the people. For proper functioning of this system
 (a) one should cast vote in elections. ☐
 (b) one must be prompt in paying taxes. ☐
 (c) one must be good to himself and to the society. ☐
 (d) None of these. ☐
75. Which is correct?
 (a) Lok Sabha cannot be dissolved before 5 years ☐
 (b) Rajya Sabha lasts only for 6 years ☐
 (c) Lok Sabha can be dissolved before 5 years ☐
 (d) Life of Lok Sabha can be extended ☐

VII

[From I A S. Exam., 1985]

- 76 "The basic structure of the Indian Constitution cannot be changed" In which case, the Supreme Court of India gave this verdict?

- (a) Golak Nath case ☐ (b) Minerva Mill case. ☐
 (c) Keshavananda Bharati Case ☐
 (d) None of the above. ☐

77. Consider the following States with respect to their representation in the Lok Sabha -

- I. Andhra Pradesh
 II. Madhya Pradesh
 III. Tamil Nadu
 IV. Maharashtra

Which of the following sequences is correct ? (> means 'greater than')

- (a) IV > I > II > III ☐ (b) I > II > III > IV ☐
 (c) IV > III > II > I ☐ (d) II > I > III > IV ☐

78. The President of India is elected indirectly by the electoral college consisting of the elected members of the

- (a) Lok Sabha only. ☐
 (b) Rajya Sabha only ☐
 (c) Lok Sabha and Rajya Sabha only ☐
 (d) Lok Sabha, Rajya Sabha and Legislative Assemblies of the States ☐

79. After retirement, a High Court Judge

- (a) can plead in the same High Court ☐
 (b) cannot plead in the same High Court ☐
 (c) can plead in the Supreme Court ☐
 (d) can plead in any of the High Courts ☐

80. Panchayati Raj was first introduced in the State of Rajasthan and

- (a) Andhra Pradesh ☐ (b) Bihar. ☐
 (c) Gujarat ☐ (d) Haryana ☐

81. In a Parliamentary system of Government

- (a) the Parliament is responsible to the executive. ☐
 (b) the Parliament is responsible to the judiciary. ☐
 (c) the executive is responsible to the Parliament. ☐
 (d) the judiciary is responsible to the parliament ☐

82. The Deputy Chairman of Rajya Sabha can be removed by a resolution

- (a) passed by a two-thirds majority of its total members at that time ☐

- (b) passed by a simple majority of its total members at that time. ☐
- (c) moved by a Rajya Sabha but passed by Lok Sabha. ☐
- (d) None of the above ☐
83. The Seventh Schedule of the Indian Constitution contains
- (a) States and Union Territories. ☐
- (b) Salaries of the President, Governors of States, Judges of Supreme Court, etc ☐
- (c) Union List, State List and Concurrent List. ☐
- (d) Allocation of seats in the Rajya Sabha. ☐
84. Which of the following languages are included in the Eighth Schedule of the Indian Constitution ?
- (a) Sindhi and English ☐ (b) English and Kashmiri ☐
- (c) Kashmiri and Konkani ☐
- (d) Sindhi and Kashmiri. ☐
85. National Anthem was written by
- (a) Rabindranath Tagore ☐
- (b) Bankim Chandra Chatterjee. ☐
- (c) Mohammad Iqbal ☐
- (d) None of the above. ☐
86. What is the minimum percentage of the strength of opposition required in a State legislature for the appointment of an opposition leader ?
- (a) 21% ☐ (b) 25% ☐
- (c) 40% ☐ (d) None of the above. ☐
87. *Mandamus* means
- (a) a writ issued by a superior court, commanding that a specified thing be done. ☐
- (b) a legal term for a prisoner's right to appear in person and be tried in a court. ☐
- (c) a written public declaration of the intentions, opinions, or motives of a leader, party or body. ☐
- (d) the principle of hybridisation, discovered by Gregor Mendel which led to the improved breeds of plant and animal life ☐

VIII

[From I A.S Exam, 1986]

88. Which of the following States has 'Urdu' as its official language ?

- (a) Madhya Pradesh ☐ (b) Jammu & Kashmir ☐
 (c) Bihar ☐ (d) Rajasthan ☐
89. Sarkaria Commission was set up to
- (a) make necessary investigations and suggestions regarding the problem of Punjab. ☐
 (b) review the Centre State relationship. ☐
 (c) investigate about the riots that took place in Delhi in 1984. ☐
 (d) investigate about the assassination of Mrs. Indira Gandhi. ☐
90. The Directive Principles of State Policy were given precedence over Fundamental Rights in constitutional amendment.
- (a) 40th ☐ (b) 42nd ☐
 (c) 44th ☐ (d) 50th ☐
91. Which of the following States is *not* covered by Panchayati Raj ?
- (a) Manipur and Assam ☐ (b) Tripura and Sikkim ☐
 (c) Meghalaya and Nagaland ☐
 (d) Assam and West Bengal. ☐
92. Which of the following is *correct* about the Chief Election Commissioner ?
 He holds ~~the~~ office till he attains the age of
- (a) 62 years or completes 3 years of service, whichever is earlier ☐
 (b) 65 years. ☐
 (c) 62 years ☐
 (d) 65 years of age or completes 5 years of service, which ever is earlier ☐
93. Constitution does not recognise the caste system because
- (a) it leads to inequality which is against the Constitution ☐
 (b) India is secular. ☐
 (c) it leads to untouchability. ☐
 (d) All of the above ☐
94. If suitable scheduled caste/tribe candidates are not available, the posts
- (a) may for the time being be filled by other candidates. ☐
 (b) are filled by other backward classes candidates ☐
 (c) are left vacant ☐ (d) None of the above. ☐

IX

[From I A S. Exam., 1987]

95. Representation of any state in Rajya Sabha is according to the
 (a) population of the state ☐ (b) area of the state. ☐
 (c) fixed number of candidates. ☐
 (d) number of representations in Lok Sabha from the state ☐
96. The Speaker of the Lower House of a State can step down by submitting his resignation to the
 (a) the Governor ☐ (b) Chief Minister. ☐
 (c) Deputy Speaker of the House ☐
 (d) President. ☐
97. The Judges of a High Court are appointed by the President with the consent of
 (a) the Governor. ☐
 (b) the Governor and Chief Justice of India and Chief Justice of the High Court concerned ☐
 (c) the Governor and presiding Chief Justice of the High Court ☐
 (d) None of these ☐
98. India has Parliamentary democracy because
 (a) of distribution of power between the centre and the states ☐
 (b) the Council of Ministers is responsible to the legislature ☐
 (c) the Members of the Lok Sabha are elected by the public. ☐
 (d) of a single constitutional framework ☐
99. Parliament can legislate on matters in the State List.
 (a) under any circumstances ☐
 (b) if Rajya Sabha passes a resolution by 2/3 majority. ☐
 (c) by wish of the President ☐
 (d) by asking the legislature of the state concerned ☐
100. The maximum gap between two sessions of the Parliament can be of
 (a) six months ☐ (b) nine months ☐
 (c) three months. ☐ (d) twelve months ☐
101. A Parliamentary Bill passed by Lok Sabha is sent to the President for assent. The President sends it back to Lok Sabha for reconsideration. If the Lok Sabha again sends it back to the President without making any changes, the President.
 (a) must give his assent to it. ☐

- (b) can take help of the Supreme Court ☐
 (c) can again send the bill for reconsideration
 (d) can arrange referendum. ☐
102. India is a federal state because of
 (a) dual judiciary. ☐
 (b) dual citizenship prevalent here ☐
 (c) share of power between the centre and the states
 (d) written constitution ☐
103. The Governor of which state has been entrusted with special power for administration of the tribal areas ?
 (a) Madhya Pradesh ☐ (b) Bihar ☐
 (c) Assam ☐ (d) Arunachal Pradesh ☐

X

[From I A S Exam, 1988]

104. Who among the following have the right to vote in the Vice-Presidential election but not in the Presidential election ?
 (a) Elected members of the Upper Houses of the states ☐
 (b) Ministers who are not members of either House of Parliament. ☐
 (c) Nominated members of Parliament ☐
 (d) Members of Parliament who are absent from all meetings of the house for a period of sixty days without permission of the house ☐
105. A political party is recognised as a national party
 (a) when it secures at least five percent of the total votes cast in a national election. ☐
 (b) when it contests elections in all the states of the country ☐
 (c) if it captures power at least in three states. ☐
 (d) if it is recognised as a political party in four or more states. ☐
106. The Constitution of India provides for the nomination of two members of Lok Sabha by the President to represent
 (a) Parsis ☐
 (b) men of eminence. ☐
 (c) the business community. ☐
 (d) the Anglo-Indian community. ☐
107. Economic Justice as one of the objectives of the Indian Constitution has been provided in the
 (a) Fundamental Rights and Directive Principles ☐

- (b) Preamble and Directive Principles. ☐
- (c) Preamble Fundamental Rights ☐
- (d) Preamble, Fundamental Rights and Directive Principles ☐
- 108 Who among the following has the right to speak or otherwise take up part in the proceedings of either House of Parliament and to be a member of any Parliamentary Committee in India but is *not* entitled to vote ?
- (a) The Comptroller and Auditor-General. ☐
- (b) The Chief Election Commissioner ☐
- (c) The Chairman of the Finance Commission. ☐
- (d) The Attorney-General ☐
109. The allocation of seats for each State in the present Lok Sabha is based on
- (a) the 1951 census ☐ (b) the 1961 census ☐
- (c) the 1971 census ☐ (d) the 1981 census ☐
110. Assertion (A) : The Indian Constitution closely follows the British Parliamentary model.
Reason (R) : In India the Upper House of the Parliament has judicial powers
- (a) Both A and R are true, and R is the correct explanation of A ☐
- (b) Both A and R are true, but R is not a correct explanation of A. ☐
- (c) A is true, but R is false. ☐
- (d) A is false, but R is true ☐

XI

[From I A.S. Exam., 1989]

- 111 The 42nd amendment to the Indian Constitution is notable because it gives
- (a) special treatment to the Jammu and Kashmir. ☐
- (b) primacy of Directive Principles over Fundamental Rights. ☐
- (c) primacy to the Fundamental Rights over the Directive Principles ☐
- (d) special treatment of Sikkim. ☐
- 112 In a political party of 36 members, the minimum number of members needed to split original political party as per Anti-defection law, should be
- (a) 18 ☐ (b) 12 ☐
- (c) 9 ☐ (d) 24. ☐

- 113 In the estimation of expenditure charged on the Consolidated Fund of India, the Parliament has
- (a) full power to discuss during the financial emergency ☐
 - (b) full power to discuss. ☐
 - (c) no power to discuss ☐
 - (d) None of the above. ☐
114. If the Speaker of the State Legislative Assembly decides to resign, he should submit his resignation to the
- (a) Judges of the High Court ☐
 - (b) Deputy Speaker. ☐
 - (c) Chief Minister ☐
 - (d) President. ☐
- 115 No money bill can be introduced in the Legislative Assembly without the recommendation of
- (a) Chief Minister ☐ (b) Governor ☐
 - (c) Speaker ☐ (d) Finance Minister ☐
- 116 All India services can be created by
- (a) President. ☐
 - (b) Prime Minister ☐
 - (c) U P S C ☐
 - (d) Parliament ☐
- 117 Assertion (A) Finance Commission aims to safeguard the fiscal autonomy of the States
- Reason Finance Commission is constituted every fifth year,
- (a) Both A and R are true, and R is the correct explanation of A ☐
 - (b) Both A and R are true, but R is not the correct explanation of A ☐
 - (c) A is true, but R is false ☐ (d) A is false but R is true ☐
- 118 Match the following
- | | |
|--|---|
| I A person with maximum number of votes gets elected | (A) List System |
| II. A person votes for the party and not for the candidate | (B) Limited votes plan |
| III 1 candidate = 1 vote | (C) Single transferable vote |
| IV 1 elector = many votes | (D) Relative majority |
| | (E) Cumulative vote |
| (a) I-A II-B, III-C, IV-D <input type="checkbox"/> | (b) I-D, II-A, III-B, IV-C <input type="checkbox"/> |
| (c) I-E, II-D, III-B IV-A <input type="checkbox"/> | (d) I-B, II-D, III-B, IV-C <input type="checkbox"/> |

[From other Examinations]

119. The number of Union Territories in India is
 (a) 5 ☐ (b) 6 ☐
 (c) 7 ☐ (d) None of these. ☐
120. *Satyamevo Jayate* has been taken from
 (a) Mundaka Upanishad; ☐ (b) Rig Veda ☐
 (c) Natya Sutra ☐ (d) None of these ☐
121. In which of the following legislatures can a non-member be the Presiding Officer?
 (a) Lok Sabha ☐ (b) Rajya Sabha ☐
 (c) Vidhan Sabha ☐ (d) None of these. ☐
122. The State of Nagaland in India cannot be termed a State because it lacks
 (a) Linguistic homogeneity ☐
 (b) Sovereignty ☐
 (c) Bicameral legislature. ☐
 (d) a High Court exclusively for its own. ☐
123. The greatest hallmark of personal liberty is
 (a) Mandamus ☐ (b) Certiorari ☐
 (c) Quo Warranto. ☐ (d) Habeas Corpus ☐
124. Which one of the following is not a piece of social legislation?
 (a) The Immoral Traffic in Women and Girls Act. ☐
 (b) The Maintenance of Internal Security Act ☐
 (c) The Abolition of Untouchability Act ☐
 (d) The Special marriages Act ☐
125. It is often said that the key to the minds of the makers of our Constitution lies in
 (a) Preamble ☐ (b) Fundamental Rights ☐
 (c) Fundamental duties ☐
 (d) Directive Principles of State Policy ☐
126. Which of the following is not true of a Legislative Council?
 (a) It consists of different categories of representatives ☐
 (b) Normal life of the council is 5 years ☐
 (c) It consists of a Chairman and Vice-Chairman. ☐
 (d) Strength of members should not be less than 40- ☐

- 127 Which among the following qualifications are *not* required for a person to become the President of India ?
- (a) Must be over 35 years of age ☐
 - (b) Should not hold any office of profit ☐
 - (c) Should be a graduate. ☐
 - (d) Must be an Indian citizen ☐
- 128 Who elects the President of India ?
- (a) An electoral college consisting of the elected members of both Houses of Parliament ☐
 - (b) An electoral college consisting of the elected members of Lok Sabha and the elected members of all the State Legislative Assemblies ☐
 - (c) People of India ☐
 - (d) An electoral college consisting of the elected members of both the Houses of Parliament and the elected members of all the State Legislative Assemblies ☐
- 129 The concept of a welfare state is included in the Constitution of India in
- (a) Preamble ☐
 - (b) Fundamental Rights. ☐
 - (c) Fourth Schedule. ☐
 - (d) Directive Principles of State Policy ☐
- 130 How many members can be nominated to the Lok Sabha by the President ?
- (a) 2 ☐
 - (b) 4 ☐
 - (c) 5 ☐
 - (d) 12 ☐
- 131 The dispute regarding the election of the President of India is referred to the
- (a) Chief Election Commissioner ☐
 - (b) Supreme Court. ☐
 - (c) Parliament ☐
 - (d) Attorney-General ☐
132. If the President wants to resign, he should address his resignation letter to the
- (a) Parliament ☐
 - (b) Prime Minister ☐
 - (c) Chief Justice of India. ☐
 - (d) Vice-President ☐
- 133 Council of Ministers of the Union of India is responsible to the
- (a) Rajya Sabha. ☐
 - (b) Prime Minister ☐
 - (c) President. ☐
 - (d) Lok Sabha ☐

- 134 When a Money Bill is passed by the Parliament, the President has the power to
 (a) amend it. ☐ (b) reject it ☐
 (c) keep it with him. ☐
 (d) return it for reconsideration ☐
- 135 To uphold and protect the sovereignty, unity and integrity of India, a provision has been made in the
 (a) Directive Principles of State Policy ☐
 (b) Preamble to the Constitution. ☐
 (c) Fundamental Duties ☐ (d) Fundamental Rights ☐
- 136 Finance Commission is appointed for
 (a) passing the money bills ☐
 (b) approving the money bills ☐
 (c) drafting of budget. ☐
 (d) making recommendations to the President regarding distribution between the Union and the States of the net proceeds of taxes ☐
- 137 Wealth Tax on agricultural property is levied by the
 (a) Central Government. ☐ (b) State Governments ☐
 (c) Both Central and State Governments. ☐
 (d) None of the above ☐
- 138 The 45th amendment to the Indian Constitution relates to
 (a) Minorities Commission ☐
 (b) Commission for Scheduled Castes and Scheduled Tribes ☐
 (c) Extension of reservation of seats for Scheduled Castes and Scheduled Tribes ☐
 (d) None of the above ☐
- 139 The Directive Principles of State Policy are included in which part of the Indian Constitution ?
 (a) Part I ☐ (b) Part II ☐
 (c) Part III ☐ (d) Part IV ☐
- 140 Which of the following is *not* a fundamental right ?
 (a) Freedom of speech and expression ☐
 (b) Right to assemble peacefully and without arms ☐
 (c) Right to property ☐ (d) Right to equality ☐
- 141 Which tax is not levied by the Central Government ?
 (a) Wealth Tax ☐ (b) Profession Tax ☐
 (c) Income Tax ☐ (d) Excise Duty ☐

142. On which date did India become a Sovereign, Democratic Republic ?
 (a) 15th August 1947 ☐ (b) 26th January, 1950 ☐
 (c) 30th January, 1952 ☐ (d) 26th January, 1955. ☐
143. The Supreme Court of India consists of a Chief Justice and
 (a) 15 other judges. ☐ (b) 20 other judges. ☐
 (c) 25 other judges. ☐ (d) None of the above ☐
144. The minimum age to qualify for election to the Lok Sabha is
 (a) 25 years ☐ (b) 21 years. ☐
 (c) 30 years ☐ (d) 35 years. ☐
145. The Vice-President of India is the *ex-officio* Chairman of the
 (a) Rajya Sabha ☐ (b) Planning Commission ☐
 (c) Election Commission. ☐ (d) Finance Commission. ☐
146. The Judges of a High Court retire at the age of
 (a) 60 years. ☐ (b) 65 years. ☐
 (c) 58 years. ☐ (d) 62 years ☐
147. The total number of members in the Legislative Council of a State will not be less than
 (a) 60 ☐ (b) 30 ☐
 (c) 40 ☐ (d) 50 ☐
148. A Judge of the Supreme Court retires at the age of
 (a) 65 years ☐ (b) 55 years ☐
 (c) 58 years ☐ (d) 62 years ☐
149. Which of the following is included in the Union List ?
 (a) Posts and Telegraphs ☐ (b) Criminal law ☐
 (c) Land revenue ☐ (d) Police ☐
150. When a money bill is sent to the Rajya Sabha, it has to be returned with recommendations, if any, to the Lok Sabha within a period of
 (a) 5 days. ☐ (b) 10 days. ☐
 (c) 14 days. ☐ (d) 20 days. ☐
151. Who administers the oath of office to the President of India ?
 (a) Chief Justice of India ☐
 (b) Vice-President of India ☐
 (c) Speaker of the Lok Sabha ☐
 (d) Prime Minister of India ☐
152. Which of the following is a Union Territory
 (a) Tripura ☐ (b) Delhi ☐
 (c) Manipur ☐ (d) Nagaland ☐

153. How many Finance Commissions have been set up so far ?
 (a) Eight ☐ (b) Nine ☐
 (c) Ten ☐ (d) None of these. ☐
154. A citizen of India was born on the day India attained independence. In which of the following years could he be elected as a member of Rajya Sabha ?
 (a) 1978 ☐ (b) 1971 ☐
 (c) 1973 ☐ (d) 1977. ☐
155. A member of Union Public Service Commission resigns his office before the expiry of his term on account of personal and private reasons. To whom does he address his letter of resignation ?
 (a) Chairman of the Commission. ☐
 (b) Prime Minister. ☐
 (c) President ☐ (d) Union Home Minister ☐
156. The Comptroller and Auditor-General of India is appointed by the
 (a) Union Finance Minister. ☐
 (b) Union Law Minister. ☐
 (c) Prime Minister. ☐
 (d) President. ☐
157. A member of Lok Sabha can be debarred from taking his seat in the House, if he has been absent without taking permission of the House, for a period of
 (a) ten days ☐ (b) twenty days. ☐
 (c) thirty days. ☐ (d) sixty days. ☐
158. Which is a Union Territory ?
 (a) Mizoram ☐ (b) Arunachal Pradesh ☐
 (c) Meghalaya ☐ (d) Pondicherry ☐
159. The Rajya Sabha is dissolved after every
 (a) 2 years ☐ (b) 4 years. ☐
 (c) 5 years. ☐ (d) Never ☐
160. Indian Constitution was adopted on the
 (a) 15th August 1947. ☐ (b) 30th January 1948. ☐
 (c) 26th November, 1949. ☐ (d) 26th January, 1950. ☐
161. Fundamental Duties were added to the Constitution of India by which amendment Act ?
 (a) 41st ☐ (b) 42nd ☐
 (c) 43rd ☐ (d) 44th. ☐

- 162 What is the amendment whereby the power of the Lok Sabha to amend the Constitution was affirmed ?
 (a) 24th ☐ (b) 42nd
 (c) 43rd ☐ (d) 39th.
- 163 If an act or amendment is included in the Ninth Schedule of the Constitution, what will be the result ?
 (a) It becomes justiciable. ☐
 (b) It becomes non-justiciable. ☐
 (c) A new state or territory is created. ☐
 (d) It relates to official languages. ☐
- 164 Who among the following has voting rights ?
 (a) Any inhabitant of a state ☐
 (b) A citizen of a state ☐
 (c) Adult citizen of a state ☐
 (d) Adult literate citizen of a state ☐
- 165 Panchayati Raj is a/an
 (a) Administrative structure. ☐
 (b) Financial structure ☐
 (c) Physical structure ☐
 (d) State structure ☐
- 166 The correct nomenclature of India according to the Preamble is
 (a) Sovereign, Secular, Democratic Republic ☐
 (b) Sovereign, Democratic Republic ☐
 (c) Sovereign, Socialist, Secular, Democratic Republic ☐
 (d) Sovereign, Secular, Socialist Democracy ☐
167. Which of the following cases was connected with the Supreme Court's judgement in 1980 that the amendment made to Article 31C and 358 are invalid ?
 (a) Golaknath case ☐ (b) Sajjan Singh case ☐
 (c) Minerva Mills case ☐
 (d) Keshavanand Bharti case ☐
- 168 The Governor of a state is a
 (a) Head of the State ☐ (b) Head of Government ☐
 (c) President's agent ☐ (d) A non-political figure ☐
- 169 The President of India appoints the Attorney General, who is not allowed to discharge which of the following functions ?
 (a) He advises the Government of India in all legal matters ☐
 (b) He is allowed to sit and participate in the deliberations of the Parliament ☐

- (c) He has the authority to assist the Government in legal matters in any court of India ☐
- (d) He is appointed if his qualifications are equivalent to those of a judge of the Supreme Court ☐
- 170 The upper limit of expenses for election to the Lok Sabha has been increased from ☐
- (a) Rs 35,000 to Rs one lakh. ☐
- (b) Rs 35,000 to Rs 60,000 ☐
- (c) Rs 25,000 to Rs one lakh ☐
- (d) None of these. ☐
- 171 The official language of Jammu and Kashmir is ☐
- (a) Dogri ☐ (b) Kashmiri ☐
- (c) Urdu ☐ (d) Punjabi ☐
- 172 The maximum duration of an ordinance promulgated by the President, when the Parliament is not in session, is ☐
- (a) two months ☐ (b) three weeks ☐
- (c) six weeks ☐ (d) None of these ☐
- 173 The Rajya Sabha has no power over ☐
- (a) bills to amend the Constitution ☐
- (b) finance bills ☐
- (c) bills on subjects falling in the concurrent list ☐
- (d) impeachment proceedings ☐
174. Union territories are administered by ☐
- (a) the Parliament ☐ (b) the President ☐
- (c) Administrators ☐ (d) Chief Minister ☐
- 175 Which symbol has Indian Government adopted from Mauryan Dynasty ? ☐
- (a) Satyamievo Jayate ☐ (b) Lion Capitol ☐
- (c) The National Bird ☐
- (d) The National Calendar ☐
- 176 Sikkim was made an integral part of India under ☐
- (a) 26th Amendment ☐ (b) 36th Amendment ☐
- (c) 38th Amendment ☐ (d) 21st Amendment. ☐
- 177 Which of the following qualifications has not been prescribed by the Constitution for a person to be eligible for election as President of India ? ☐
- (a) He must be a citizen of India. ☐
- (b) He must be at least 35 years old. ☐
- (c) He must not hold any office of profit under the Government. ☐
- (d) He must be qualified to become a members of Rajya Sabha ☐

178. The membership of the Legislative Council of a State cannot exceed
- (a) $1/4$ of the total number of members of the State Legislative Assembly ☐
 - (b) $1/3$ of the total number of members in the Legislative Assembly ☐
 - (c) $1/6$ of the total number of members in the Legislative Assembly. ☐
 - (d) $1/2$ of the total number of members in the Legislative Assembly. ☐
179. Which are the States next to U P are having the maximum representation in the Lok Sabha ?
- (a) Bihar and Maharastra ☐
 - (b) Bihar and Madhya Pradesh ☐
 - (c) Madhya Pradesh and Tamil Nadu ☐
 - (d) Madhya Pradesh and Maharashtra ☐
180. The members of Constituent Assembly were
- (a) elected by the provincial assemblies ☐
 - (b) elected directly by the people. ☐
 - (c) nominated by the government. ☐
 - (d) only representatives of the princely states ☐
181. The constitution (43th Amendment)
- (a) ensures right to property. ☐
 - (b) ensures the freedom of the Press. ☐
 - (c) limits the powers of the Government to proclaim internal emergency ☐
 - (d) restores to the High Courts and to the Supreme Court their jurisdiction to consider the validity of any Central or State Laws ☐
182. Which of the following is contained in the Concurrent List ?
- (a) Forests ☐ (b) Health ☐
 - (c) Police ☐ (d) Agriculture. ☐
183. The principal language of Nagaland is
- (a) English ☐ (b) Naga ☐
 - (c) Assamese ☐ (d) Khasi ☐
184. In a parliamentary system, the executive is responsible
- (a) directly to the people. ☐ (b) to legislature ☐
 - (c) to judiciary ☐ (d) None of the above ☐

185. The Vice-President is elected by
 (a) the people directly ☐
 (b) the members of Lok Sabha and Rajya Sabha ☐
 (c) the members of Rajya Sabha only. ☐
 (d) the members of Lok Sabha, Rajya Sabha and State Legislatures. ☐
186. Which language has been last added to the Eighth Schedule of the Constitution of India ?
 (a) Urdu ☐ (b) Sanskrit ☐
 (c) Sindhi ☐ (d) Assamese ☐
187. Which of the following is *not* included in the list of fundamental duties in the constitution ?
 (a) To safeguard public property and to abjure violence ☐
 (b) To uphold and protect the sovereignty, unity and integrity of India ☐
 (c) Secularism ☐
 (d) To abide by the constitution and respect its ideas. ☐
188. The President of Union of India has the same constitutional authority as the
 (a) British Monarch. ☐ (b) President of U. S. A. ☐
 (c) President of Egypt. ☐ (d) President of Russia. ☐
189. A candidate to become a member of Lok Sabha should not be less than
 (a) 21 years ☐ (b) 25 years ☐
 (c) 30 years ☐ (d) 35 years ☐
190. Who is authorised to decide over a dispute regarding disqualification of a Member of Parliament ?
 (a) Election Commissioner ☐
 (b) Speaker of the Lok Sabha ☐
 (c) President of India ☐
 (d) A committee set up by the Parliament. ☐
191. Which of the following States in India has no Legislative Council ?
 (a) Tamil Nadu ☐ (b) Bihar ☐
 (c) West Bengal ☐ (d) Maharashtra. ☐
192. The most important controversial provision in the 42nd constitutional amendment is
 (a) supremacy of Parliament ☐
 (b) enumeration of Fundamental Duties ☐

- (c) term of Lok Sabha and Legislative Assemblies. ☐
- (d) primacy to the Directive Principles over Fundamental Rights ☐
- 193 *Liberty, Equality and Fraternity*, this inspiration was derived from
- (a) American Revolution ☐ (b) French Revolution ☐
- (c) Russian Revolution ☐ (d) None of the above. ☐
- 194 The emblem, adopted by the Indian Government, which was symbol of the Maurya Dynasty, is
- (a) Four lions ☐ (b) Chariot wheel ☐
- (c) Swastika ☐ (d) Lotus ☐
- 195 The Union of India consists of
- (a) 21 States and 10 Union Territories. ☐
- (b) 25 States and 7 Union Territories ☐
- (c) 20 States and 7 Union Territories ☐
- (d) None of the above. ☐
- 196 How many languages have been recognised in India's Constitution ?
- (a) 14 ☐ (b) 15 ☐
- (c) 16 ☐ (d) 18 ☐
- 197 Which statement about the President of India is *true* in connection with a bill sent to him for his approval ?
- (a) He can reject it ☐
- (b) He can send it back for reconsideration ☐
- (c) He can sign it with his own amendment. ☐
- (d) He can refuse to sign it ☐
- 198 Salary and perquisites received by the President of India are decided by the
- (a) Prime Minister ☐ (b) Parliament ☐
- (c) Supreme Court ☐ (d) None of the above ☐
- 199 Which statement affects the 'right to equality' contained in the Indian Constitution ?
- (a) Separate bathing ghats for males and females ☐
- (b) Separate bathing ghats for Hindus and Muslims ☐
- (c) Separate ghats for people and animals ☐
- (d) None of the above ☐
- 200 In which case is a joint session of the Lok Sabha and Rajya Sabha convened by the President ?
- (a) When a bill is passed by the Lok Sabha and the Rajya Sabha with 2/3rd majority ☐
- (b) To impeach the President and to pass a bill with 2/3rd majority ☐

- (c) When the Rajya Sabha rejects a bill which is already passed by the Lok Sabha ☐
- (d) An ordinary bill passed by the Lok Sabha but not by Rajya Sabha ☐
201. To compete for Vice-Presidentship election, a person should have completed the minimum age of
- (a) 30 years ☐ (b) 35 years ☐
- (c) 40 years ☐ (d) 45 years ☐
202. A person, who is otherwise eligible for the post of a High Court Judge, must have been an advocate for not less than
- (a) 5 years. ☐ (b) 10 years, ☐
- (c) 15 years ☐ (d) 20 years ☐
203. Parliament consists of
- (a) Lok Sabha and Rajya Sabha only. ☐
- (b) Lok Sabha only ☐
- (c) Rajya Sabha ☐
- (d) President, Lok Sabha and Rajya Sabha ☐
204. A money bill before going to Rajya Sabha is required to be certified that it is a money bill. This is done by
- (a) Speaker of the Lok Sabha. ☐
- (b) Chairman of the Rajya Sabha. ☐
- (c) Finance Minister ☐ (d) President. ☐
205. Finance Commission is set up after every
- (a) 2 years ☐ (b) 5 years. ☐
- (c) 7 years. ☐ (d) 10 years. ☐
206. Which state has the highest number of seats (constituencies) reserved for scheduled castes and scheduled tribes in Parliament ?
- (a) Uttar Pradesh ☐ (b) Andhra Pradesh ☐
- (c) Madhya Pradesh ☐ (d) Bihar ☐
207. Which of the following does not fall in the jurisdiction of the Indian Parliament ?
- (a) Foreign Pilgrimage ☐
- (b) Consideration of Money Bills ☐
- (c) Consideration of Ordinary Bills ☐
- (d) Fundamental Rights and Duties ☐
208. India is a Republic because its—
- (a) President is elected ☐
- (b) Indian dominion has one Parliament ☐
- (c) It has one Constitution ☐ (d) It is Sovereign ☐

209. Indian Parliament can rename or define the boundary of a state by
 (a) amending the Constitution. ☐
 (b) getting the consent of the Prime Minister. ☐
 (c) getting the consent of the Chief Minister of the concerned state. ☐
 (d) getting the consent of the concerned State legislature and Parliament's approval ☐
210. The first President of Free India was
 (a) Dr. Rajendra Prasad ☐ (b) Dr. Zakir Hussain ☐
 (c) Dr. S. Radhakrishnan ☐
 (d) Mr. Fakhruddin Ali Ahmed ☐
211. Who was the Chairman of the Drafting Committee of the Constituent Assembly of India?
 (a) Pt. J. L. Nehru ☐ (b) Dr. Rajendra Prasad ☐
 (c) Dr. B. R. Ambedkar ☐
 (d) Sardar Vallabhbhai Patel ☐
212. Who appoints the Attorney General of India?
 (a) Chief Justice of Supreme Court ☐
 (b) Prime Minister ☐ (c) President ☐
 (d) Vice-President ☐
213. Public Accounts Committee submits its report to the
 (a) Finance Minister ☐
 (b) Speaker of Lok Sabha ☐
 (c) Prime Minister. ☐ (d) President. ☐
214. What is the minimum age required to become a Supreme Court Judge?
 (a) 35 years ☐ (b) 40 years ☐
 (c) 55 years ☐ (d) No age limit ☐
215. Which of the following words were added to the preamble of Indian constitution under the 42nd Amendment?
 (a) Democratic Republic ☐ (b) Democratic, Socialist ☐
 (c) Socialist, Secular ☐ (d) Sovereign, Secular ☐
216. Which of the following States does not have Vidhan Parishad?
 (a) Jammu & Kashmir ☐ (b) Andhra Pradesh ☐
 (c) Maharashtra ☒ (d) Karnataka. ☐
217. Rajya Sabha is considered to be a permanent house because
 (a) its members never retire. ☐
 (b) the house is never dissolved. ☐

- (c) only one-third of its members retire after every two years.
- (d) None of these reasons ☐
218. By how many States must a constitutional bill be passed before it is given assent by the President of India ?
- (a) All ☐ (b) 12 ☐
- (c) 13 ☐ (d) 2/3. ☐
219. 36th Constitutional Amendment relates to
- (a) Sikkim ☐ (b) Manipur. ☐
- (c) Mizoram. ☐ (d) Princely priveleges ☐
220. Which of the following is *not* included in the 8th Schedule of the Constitution ?
- (a) Hindi ☐ (b) English ☐
- (c) Sindhi ☐ (d) Kashmiri ☐
221. The number of States having two Houses of legislature is
- (a) 5 ☐ (b) 6 ☐
- (c) 7 ☐ (d) 12 ☐
222. The Maximum gap between two sessions of the Indian Parliament should not exceed—
- (a) 3 months ☐ (b) 6 months. ☐
- (c) 9 months. ☐ (d) 1 year ☐
223. The maximum strength of Lok Sabha and Rajya Sabha is
- (a) 525 and 250 ☐ (b) 545 and 250 ☐
- (c) 535 and 375 ☐ (d) 500 and 250 ☐
224. The Minimum strength of a State Legislative Assembly shall be
- (a) 60 ☐ (d) 50 ☐
- (c) 90 ☐ (d) 80 ☐
225. Comptroller and Auditor-General is appointed by
- (a) Prime Minister of India ☐
- (b) President of India ☐
- (c) Lok Sabha ☐
- (d) Finance Minister. ☐
226. To form a quorum, how many members of Lok Sabha or Rajya Sabha should be present ?
- (a) 1/10 of total membership ☐
- (b) 1/6 of total membership ☐
- (c) 1/4 of total membership ☐
- (d) 1/5 of total membership ☐

227. The President of India can nominate how many members to Rajya Sabha ?
- (a) 2 ☐ (b) 4 ☐
- (c) 6 ☐ (d) 12. ☐
228. The Attorney-General of India is appointed by
- (a) The Chief Justice of India ☐
- (b) President of India. ☐
- (c) Prime Minister ☐ (d) Law Minister ☐

3 SALIENT FEATURES

229. On 29th August, 1947 the Constituent Assembly passed a resolution appointing a Drafting Committee for framing a constitution of India. It was headed by
- (a) N Gopalaswami Ayyar ☐ (b) Dr B R Ambedkar ☐
- (c) T.T. Krishnamachari ☐ (d) K M Munshi ☐
230. The Drafting Committee completed the draft Constitution of India in February 1948, but it was adopted on
- (a) 26th November, 1949. ☐ (b) 26th January, 1949 ☐
- (c) 26th November, 1948, ☐ (d) None of the above. ☐
231. The Constitution of India came into force on
- (a) 26th November, 1949 ☐ (b) 26th January, 1949 ☐
- (c) 26th January, 1950 ☐ (d) 15th August, 1949. ☐
232. The Constitution of India is modelled on the Constitutions of
- (a) U S A and Canada ☐
- (b) Canada and Australia ☐
- (c) Australia and Britain ☐
- (d) U S A, Canada, Eire, Australia and British ☐
233. The Constitution of India is an elaborate, definite and comprehensive document because
- (a) it is a wholly written Constitution. ☐
- (b) it is a wholly un-written Constitution ☐
- (c) it is a partly written Constitution ☐
- (d) None of the above ☐
234. The Chapter on Directive Principles of State Policy derives its inspiration from the Constitution of
- (a) U S A. ☐ (b) Ireland. ☐
- (c) Russia ☐ (d) Canada. ☐
235. The chapter on Fundamental Rights derives inspiration from
- (a) the American Constitution ☐
- (b) the Canadian Constitution ☐
- (c) the Russian Constitution ☐
- (d) the Switzerland Constitution ☐

- 236 The structure of the Union Government is shaped after the models of
- (a) Canadian Constitution ☐
 - (b) Australian Constitution ☐
 - (c) British Constitution ☐
 - (d) American Constitution ☐
- 237 The form of Cabinet in the Constitution of India is based on
- (a) American Constitution ☐
 - (b) Canadian Constitution ☐
 - (c) Australian Constitution ☐
 - (d) British Constitution ☐
- 238 A large number of provisions of the Constitution of India are provisions from
- (a) Government of India Act 1919
 - (b) Government of India Act 1935
 - (c) Indian Independence Act 1947
 - (d) None of the above
- 239 Which of the following statements is *correct* ?
- (a) Constitution of India is Federal in character ☐
 - (b) Constitution of India is Unitary in character ☐
 - (c) Constitution of India does not contain the word 'Federation' and hence is not a federal Constitution ☐
 - (d) Basic character of Indian Constitution is 'federal' but it can be covered into unitary in an emergency ☐
- 240 The Constitution of India is flexible because
- (a) it provides various amending processes ☐
 - (b) it provides conversion of 'federal' structure into unitary one in an emergency ☐
 - (c) it has been amended more than 60 times ☐
 - (d) it is a 'federal' Constitution ☐
- 241 Which of the following objectives is set forth in the Preamble ?
- (a) Social, Economic and Political Justice ☐
 - (b) Liberty, Equality and Fraternity ☐
 - (c) National Sovereignty ☐
 - (d) All of these ☐

- 242 What is implied by the words 'People of India' included in the Preamble ?
- (a) The Constitution shall have to be approved by the people of India. ☐
- (b) Ultimate authority vests in the people of India. ☐
- (c) Both of these ☐ (d) None of these.
- 243 Which of the following is implied by the terms 'Republic' in the Preamble ?
- (a) The chief executive will not occupy his office by virtue of heredity ☐
- (b) The chief executive will be elected, directly or indirectly, by the people for a limited term. ☐
- (c) Both of these ☐ (d) None of these ☐
- 244 What is the implication of adding the term 'Socialist' into the Preamble ?
- (a) There is no special implication ☐
- (b) The Government is constitutionally bound to pursue socio-economic policies to ensure social, economic and political justice for all citizens ☐
- (c) Now the Indian Constitution resembles the Russian Constitution ☐
- (d) None of these ☐
- 245 At the commencement of the Constitution of India, every person who had his domicile in the territory of India and... was made a citizen of India
- (a) who was born in the territory of India ☐
- (b) either of whose parents was born in the territory of India. ☐
- (c) who has been ordinarily resident in the territory of India for not less than five years immediately preceding such commencement ☐
- (d) any of these.
- 246 What type of citizenship is provided by the Indian Constitution ?
- (a) Dual Citizenship ☐ (b) Single Citizenship ☐
- (d) Both of these. ☐ (d) Neither of these
- 247 For which of the following reasons the Constitution has provided single citizenship and not dual citizenship ?
- (a) To check the tendencies of regionalism ☐
- (b) To curb the powers of the States ☐
- (c) Both of these. ☐ (d) Neither of these ☐

- 248 Which of the following qualifications is necessary to acquire Indian citizenship by naturalisation ?
- (a) The person concerned must belong to a country where Indian citizens are allowed to become citizens or subjects of that country by naturalisation ☐
 - (b) The person concerned must renounce the citizenship of his own country. ☐
 - (c) The person concerned must be of good character. ☐
 - (d) All of these and more ☐
249. On which of the following grounds, the Government of India can deprive a person of his Indian citizenship ?
- (a) If a citizen voluntarily acquires the citizenship of any foreign State. ☐
 - (b) If a citizen assists the enemy in any manner. ☐
 - (c) If it is found out that the citizen has obtained the certificate of naturalisation by improper means. ☐
 - (d) Any of these

4. FUNDAMENTAL RIGHTS

- 250 Which of the following is *not* true of the Fundamental Rights ?
- (a) These are not absolute ☐ (b) These are absolute ☐
 - (c) These are justiciable. ☐ (d) These can be suspended. ☐
- 251 Which of the following is *not* included in the Fundamental Rights ?
- (a) Rights to Equality ☐ (b) Right to Freedom ☐
 - (c) Right to secure a social order in which social, economic and political justice shall inform all the institutions of national life ☐
 - (d) Right against Exploitation ☐
- 252 Which of the following is *not* meant by the Right to Equality ?
- (a) All persons are equal before the law ☐
 - (b) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them ☐
 - (c) There will be economic equality ☐
 - (d) There will be equality of opportunity in matters of public employment. ☐
- 253 Which of the following is implied by the Right against Exploitation ?
- (a) Traffic in human beings and forms of forced labour are prohibited ☐

- (b) No child below the age of fourteen years can be employed in a factory or mine or in any other hazardous employment ☐
- (c) Both of these. ☐ (d) None of these ☐
- 254 Which of the following rights is *not* clearly included in the Right to Freedom ?
- (a) Right to freedom of speech and expression. ☐
- (b) Right to freedom of Press ☐
- (c) Right to assemble peacefully and without arms ☐
- (d) Right to form associations or unions ☐
- 255 Which of the following is *not* included in the Right to Freedom of Religion ?
- (a) All the persons are equally entitled to freedom of conscience ☐
- (b) All the persons have a right to freely profess, practise and propagate religion ☐
- (c) Right to carry on any economic or political activity which may be associated with religious practice. No law will be made to regulate or restrict such an activity ☐
- (d) Every religious denomination or its section has a right to establish and maintain institutions for religious and charitable purposes ☐
- 256 Which of the following is *not* meant by the Cultural and Educational Rights ?
- (a) Every section of the citizens of India shall have a right to conserve its language, script or culture ☐
- (b) No citizen shall be denied admission into any educational institution, maintained by the State or receiving aid out of State funds, only on grounds of religion, race, caste, language or any of them ☐
- (c) The State shall not grant aid to those educational institutions which are, managed by minorities, based on religion or language ☐
- (d) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice ☐
- 257 Which of the following Writs can be issued, by the Supreme Court, to enforce Fundamental Rights ?
- (a) Writ of Habeas Corpus ☐ (b) Writ of Mandamus ☐
- (c) Writ of Quo Warranto ☐ (d) All of these ☐

- 258 Which of the following statements about the Writ of Mandamus is *correct* ?
- (a) This writ means 'We Command' ☐
 - (b) This is issued to a person, corporation or a court to perform one's public duty ☐
 - (c) This is a prerogative writ meant for remedial purposes ☐
 - (d) All of these ☐
- 259 Which of the following statements, about the Writ of *Quo Warranto*, is correct ?
- (a) This means 'by what order'. ☐
 - (b) This writ prevents a person from acting in a capacity to which he is not entitled ☐
 - (c) This writ has the nature of an injunction ☐
 - (d) All of these ☐
- 260 When a lower court tries to transgress the limits of powers vested in it, the High Court can issue
- (a) Writ of Mandamus ☐ (b) Writ of Prohibition ☐
 - (c) Writ of Certiorari ☐ (d) Writ of Quo Warranto ☐
- 261 Which of the following is *not* included in the Directive Principles of State Policy ?
- (a) State shall strive to secure a social order for the promotion of welfare of the people ☐
 - (b) The State shall see to it that the village panchayats do not start functioning as units of self-government ☐
 - (c) State shall direct its policy towards securing that the Indian citizens have a right to adequate means of livelihood ☐
 - (d) State shall direct its policy towards securing that there is equal pay for equal work for both men and women ☐
- 262 Which of the following statements, about the comparison of Fundamental Rights and Directive Principles, is *correct* ?
- (a) Fundamental rights are justiciable while the directive principles are not ☐
 - (b) Directive principles are justiciable while fundamental rights are not. ☐
 - (c) Directive principles are suspended, when emergency is declared, while fundamental rights are not ☐
 - (d) All of these ☐

5. PRESIDENT AND HIS POWERS

- 263 Which of the following is considered to be an office of profit ?
- (a) President ☐ (b) Vice-President ☐
 - (c) Governor ☐ (d) None of these ☐

264. Why did the Constitution-makers adopt the system of indirect election for electing the President ?

- (a) Because the direct election involves a lot of mud-slinging and it is not proper that the occupant of the high office should be already degraded ☐
- (b) Because the direct election would have actively associated the President with one or the other political party ☐
- (c) Because the system of direct election would have been a costly affair ☐
- (d) Because of all these reason ☐

265. Who is considered to be the first citizen of the country ?

- (a) Prime Minister ☐ (b) President ☐
- (c) Census Commissioner ☐ (d) Mahatma Gandhi ☐

266. The President can be a member of

- (a) either House of Parliament ☐
- (b) House of the Legislative of any State ☐
- (c) None of these. ☐ (d) Both of these ☐

267. Which of the following statements, about the Salary and Allowances of the President, is *incorrect* ?

- (a) He is paid a monthly salary of Rs 20,000 in addition to such allowances as the Parliament may decide from time to time. ☐
- (b) The emoluments and allowances of the President cannot be diminished during his term of office ☐
- (c) He pays rent for the use of his official residence. ☐
- (d) After retirement, he will get an annual pension of Rs 10,000 P M throughout his life ☐

268. What is the position of the President in the Executive ?

- (a) Real Executive ☐
- (b) Constitutional Head of the State ☐
- (c) Head of Ruling Party ☐
- (d) Constitutional Head of the Government ☐

269. Which of the following Executive Powers is *not* directly exercised by the President ?

- (a) He appoints the Chief Ministers. ☐
- (b) He appoints the Prime Minister and the members of the Council of Ministers ☐
- (c) He appoints the Governors of States ☐
- (d) He appoints the Chairman and members of the Union Public Service Commission ☐

- 270 Which of the following is *not* true of the Legislative Powers of the President ?
- (a) He summons and prorogues both the Houses of Parliament ☐
 - (b) Every Bill, passed by the two Houses of Parliament, is submitted to the President for assent. He cannot withhold his assent to the Bill even for one day ☐
 - (c) He has a right to promulgate Ordinances. However, these are issued only when the Parliament is not in session. An Ordinance has the same force and effect as an Act of Parliament ☐
 - (d) He can nominate some members to the Rajya Sabha and the Lok Sabha ☐
- 271 Which of the following Judicial Powers is enjoyed by the President ?
- (a) No criminal proceedings, whatsoever, shall be instituted or continued against the President in any court during his term of office ☐
 - (b) No civil proceedings, in which relief is claimed against the President, can be initiated during his term of office ☐
 - (c) No warrant will be issued against the President and no process for arresting or imprisoning the President can be issued from any court during his term of office ☐
 - (d) All of these ☐
- 272 Which of the following statements, about the eligibility for election as President, is *correct* ?
- (a) A person who holds, or who has held, office as President is not eligible for re-election to that office ☐
 - (b) A person who holds, or who has held office as President is eligible for re-election to that office ☐
 - (c) A person who holds, or who has held, office, as President shall have to get the approval of the Lok Sabha to become eligible for re-election to that office ☐
 - (d) None of these ☐
- 273 When a President is to be impeached for violation of the Constitution, the charge shall be preferred by
- (a) Lok Sabha ☐ (b) Rajya Sabha. ☐
 - (c) either House of Parliament ☐ (d) the Prime Minister ☐
- 274 Which House of Parliament will investigate the charge preferred against the President ?
- (a) House other than the one in which the charge has been preferred ☐
 - (b) House in which the charge has been preferred ☐
 - (c) Both the houses jointly ☐ (d) None of these ☐

- 275 An election to fill the vacancy in the office of President occurring by reason of death, resignation or removal, or otherwise must be held as soon as possible and in no case later than _____ from the date of occurrence of the vacancy
- (a) 3 months ☐ (b) 4 months ☐
 (c) 6 months ☐ (d) 8 months ☐
- 276 Residuary subjects are those subjects which are
- (a) contained in the State List ☐
 (b) contained in the Union List ☐
 (c) contained in the Concurrent List ☐
 (d) not covered by any of the three lists ☐
- 277 The Vice-President can be removed from office, before the expiry of his term, by a resolution to that effect. This resolution should be passed
- (a) by a majority of all the members of Rajya Sabha and agreed to by the Lok Sabha ☐
 (b) by a majority of all the members of Lok Sabha and may not be agreed to by the Rajya Sabha ☐
 (c) by a majority of all the members of the two Houses of Parliament at their joint sitting ☐
 (d) by a simple majority of the Lok Sabha and approved by the President ☐

6. COUNCIL OF MINISTERS

- 278 Which of the following statements, about the Council of Ministers, is correct ?
- (a) The President invites the leader of the majority party in the Lok Sabha to form the Government ☐
 (b) Ministers are appointed, by the President, on the advice of the Prime Minister ☐
 (c) The allocation of portfolios, among the Ministers, is the responsibility and discretion of the Prime Minister ☐
 (d) All of these ☐
- 279 Prime Minister has extensive powers in the appointment of Ministers. But, when exercising these powers, the Prime Minister has to ensure that
- (a) all the geographical units of the country, communities and professions have been adequately represented ☐
 (b) all the factions within the party are given due representation ☐
 (c) the Ministers have the ability and capacity to face the Houses of Parliament ☐
 (d) All of these ☐

280. What is the limit, prescribed by the Constitution, to the size of the Council of Ministers ?
- (a) One twentieth of the total membership of both Houses of Parliament ☐
 - (b) One-tenth of the total membership of Lok Sabha ☐
 - (c) No limit has been prescribed by the Constitution ☐
 - (d) Sixty-two ☐
281. Within what period of time a Central Minister must become a Member of Parliament ?
- (a) 3 months ☐ (b) 4 months ☐
 - (c) 6 months ☐ (d) 8 months. ☐
282. Which of the following statements, about the Cabinet and Council of Ministers, is correct ?
- (a) The Constitution makes no mention of the Cabinet. The Constitution provides for a Council of Ministers ☐
 - (b) Cabinet consists of only the Ministers of Cabinet rank. The Council of Ministers consists of the Ministers of Cabinet rank, Ministers of State and Deputy Ministers ☐
 - (c) The Cabinet meets frequently and takes policy decisions. The Council of Ministers meets much less often ☐
 - (d) All of these ☐
283. Which of the following is the basic principle on which the Cabinet System in India works ?
- (a) All the proceedings of Cabinet meetings are kept secret ☐
 - (b) The President is completely out of the Cabinet ☐
 - (c) The Cabinet accepts the leadership of the Prime Minister. ☐
 - (d) All of these ☐
284. Which of the following Functions is performed by the Council of Ministers ?
- (a) Executive Functions ☐ (b) Financial Functions ☐
 - (c) Legislative Functions ☐ (d) All of these ☐
285. What happens when a Minister is defeated on the floor of the Rajya Sabha ?
- (a) The Council of Ministers shall have to resign. ☐
 - (b) It is not obligatory for the Council of Ministers to resign ☐
 - (c) The President asks the Council of Ministers to seek a vote of confidence from the Lok Sabha. ☐
 - (d) The concerned minister shall have to resign ☐

7. PARLIAMENT

- 286 Which of the following is true of the Executive Powers of the Lok Sabha ?
- (a) The Council of Ministers can continue in office only so long as they enjoy the confidence of the House of the people ☐
 - (b) During question hour, the members of Lok Sabha can ask questions from Ministers. If not satisfied, the members can also ask supplementary questions ☐
 - (c) Members can move adjournment motion ☐
 - (d) All of these ☐
- 287 If no member of Parliament can satisfy the president of majority support in the House of the People, then the President shall have to
- (a) dissolve both the Houses of Parliament ☐
 - (b) dissolve the House of the People ☐
 - (c) arbitrarily select somebody as Prime Minister ☐
 - (d) himself start acting as Prime Minister until the suitable person is found ☐
- 288 How can the Speaker of Lok Sabha be removed from office ?
- (a) He cannot be removed from office ☐
 - (b) He cannot be removed by a resolution passed at the joint-sitting of the two Houses of Parliament ☐
 - (c) He can be removed by a resolution of the members of the House of the People ☐
 - (d) He can be removed by the President in consultation with the Chief Justice of India ☐
- 289 While any resolution for the removal of the Speaker from his office is under consideration, the Speaker
- (a) does not preside over the meetings of the House ☐
 - (b) has the right to take part in the proceedings of the House of the People ☐
 - (c) is entitled to vote, only in the first instance, on such resolution but not in the case of an equality of votes ☐
 - (d) All of these ☐
- 290 Which of the following powers is enjoyed by the Rajya Sabha ?
- (a) When the President is to be impeached, the powers of Rajya Sabha are equal to those of Lok Sabha ☐
 - (b) For the appointment and removal of the Judges of the Supreme Court and the High Courts, the Rajya Sabha has the same powers as Lok Sabha ☐

- (c) It plays an important role in matters of Constitutional amendment ☐
- (d) All of these ☐
- 291 Which of the following powers is *exclusive* to the Rajya Sabha ?
- (a) It may authorise the Parliament to legislate on any subject in the State List, on the plea that it is in the national interest to do so ☐
- (b) It may create new All India Services ☐
- (c) Both of these ☐ (d) None of these. ☐
- 292 A person can be disqualified to become a member of either House of Parliament if he
- (a) is declared of unsound mind by a competent court of law ☐
- (b) is an alien ☐
- (c) is disqualified by any law of Parliament. ☐
- (d) any of these ☐
- 293 A Money Bill can be introduced
- (a) only in the Rajya Sabha ☐
- (b) only in the Lok Sabha ☐
- (c) in either House of Parliament ☐
- (d) only in the joint-sitting of the two Houses of Parliament. ☐
- 294 A Bill is deemed to be a Money Bill if it deals with
- (a) the imposition, abolition, remission, alteration or regulation of any tax. ☐
- (b) the regulation of the borrowing of money or the giving of any guarantee by the government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India ☐
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of money into or the withdrawal of money from any such Fund ☐
- (d) any or all of these ☐
- 295 Whose decision will be taken as final if there is a dispute whether a Bill is a Money Bill or not ?
- (a) President ☐ (b) Vice-President
- (c) Speaker of Lok Sabha ☐ (d) Finance Minister
- 296 Which of the following statements, about Ordinary Bills (Non-money Bills), is *correct* ?
- (a) These Bills can originate in either House of Parliament

- (b) These can be introduced by any member of Parliament ☐
- (c) A notice of one month has to be given for introducing an Ordinary Bill ☐
- (d) All of these ☐
- 297 The Bill is published in the Gazette of India after the
- (a) First Reading ☐ (b) Second Reading ☐
- (c) Third Reading ☐ (d) Report Stage ☐
- 298 What happens to the Bill after it has been passed by one House of Parliament ?
- (a) The Presiding Officer of that House sends the Bill to other House for consideration ☐
- (b) In the other House, the Bill again goes through the same five stages (First Reading, Second Reading, Committee Stage, Report Stage, Third Reading) ☐
- (c) If there is disagreement between the two Houses, it is resolved by a joint session ☐
- (d) All of these ☐

8. JUDICIARY

- 299 The seat of the Supreme Court is at
- (a) Bombay ☐ (b) New Delhi ☐
- (c) Calcutta ☐ (d) Jaipur ☐
- 300 Which of the following qualifications is necessary for appointment as a Judge of the Supreme Court ?
- (a) He must be a citizen of India and, in the opinion of the President, he should be a distinguished jurist ☐
- (b) He must have been a Judge of High Court or two or more such courts in succession for at least five years ☐
- (c) He must have been an advocate of a High Court or two or more such courts in succession for a minimum period of ten years ☐
- (d) Either (a) & (b) or (a) & (c) ☐
- 301 Who appoints the Chief Justice of India and Judges of the Supreme Court ?
- (a) Prime Minister ☐ (b) President ☐
- (c) Law Minister ☐ (d) Parliament ☐
- 302 Which of the following types of Judges can be appointed as 'ad hoc' Judges of the Supreme Court ?
- (a) Retired Judge of the Supreme Court ☐
- (b) Judges of the High Court ☐
- (c) Both of these ☐
- (d) None of these ☐

- 303 Which of the following statements, about the composition of the Supreme Court, is *correct* ?
- (a) It consists of a Chief Justice. ☐
 - (b) It does not consist of more than twentyfive other Judges ☐
 - (c) The number of Judges can be increased or decreased only by an Act of Parliament ☐
 - (d) All of these ☐
- 304 Which of the following statements, about the salaries and allowances of the Supreme Court Judges, is *correct* ?
- (a) Their salaries are charged on the Consolidated Fund of India ☐
 - (b) These cannot be reduced during the term of their office ☐
 - (c) Chief Justice gets a salary of rupees ten thousand per month Other Judges get a salary of rupees nine thousand per month ☐
 - (d) All of these ☐
- 305 Which of the following procedures is *correct* for removing a Judge of the Supreme Court ?
- (a) The two Houses of Parliament should present an address to the President recommending removal of the Judge from office on the ground of proved misbehaviour or incapacity. However, such an address should be supported by a majority of the total membership of each House and not less than two-thirds of the members of each House, present and voting ☐
 - (b) Lok Sabha should present an address to the President recommending removal of the Judge from office. However, such an address should be supported by two thirds of the total membership of Lok Sabha ☐
 - (c) The Chief Justice should write to the President ☐
 - (d) None of these ☐
- 306 Which of the following statements, about the Advisory Function of Supreme Court, is *correct* ?
- (a) The President is empowered to seek advice from the Supreme Court on any matter of constitutional importance ☐
 - (b) The Supreme Court is bound to advise the President ☐
 - (c) The President may or may not accept the opinion of the Supreme Court ☐
 - (d) All of these ☐

- 307 Which of the following disputes can be brought directly before the Supreme Court ?
- (a) Disputes arising between the Centre and the States ☐
 - (b) Disputes between States themselves ☐
 - (c) Disputes between the Union Government and one or more States on the one hand, and one or more States on the other ☐
 - (d) All of these. ☐
- 308 In which of the following cases, relating to criminal matters, the appeals can be taken to the Supreme Court ?
- (a) When the High Court has reversed the judgment of lower court and converted either the acquittal into death sentence or capital punishment into acquittal. ☐
 - (b) When the High Court has requisitioned a case from the lower court and has awarded death sentence ☐
 - (c) When the High Court gives a certificate that the case is fit to be sent for appeal to the Supreme Court ☐
 - (d) All of these ☐
- 309 Which of the following disputes *cannot* be decided even by the Supreme Court ?
- (a) All the disputes can be decided by the Supreme Court ☐
 - (b) Disputes relating to treaties and agreements, concluded with the erstwhile Indian Princely States before the commencement of the Constitution, leading to their merger in the Indian Union ☐
 - (c) Disputes between Panjab and Haryana ☐
 - (d) Disputes between any two Union Territories ☐
- 310 Why is the Supreme Court called a court of record ?
- (a) Because the records of all the courts in India are kept with the Supreme Court ☐
 - (b) Because all the decisions of the Supreme Court are recorded and these form precedents for other cases of similar nature. ☐
 - (c) Because Supreme Court deals with a record number of cases ☐
 - (d) Because the records of all the High Courts are kept with Supreme Court ☐
- 311 Which of the following statements is *correct* ?
- (a) There is a provision in the Constitution that the decisions of the Supreme Court shall be binding on all the courts within the territory of India ☐

- (b) The Supreme Court is the guardian of the Constitution. It protects the Constitution and interprets its various Articles ☐
- (c) Any Act, which is against the spirit of the Constitution, is declared by the Supreme Court '*ultra vires*' ☐
- (d) All of these ☐

9. SERVICES

- 312 Who appoints the Chairman and member of the Union Public Service Commission ?
- (a) Prime Minister ☐ (b) President ☐
- (c) Vice-President ☐ (d) Education Minister ☐
- 313 A member of Union Public Service Commission holds office for a term of
- (a) five years ☐
- (b) six years or until he attains the age of sixty-five ☐
- (c) six years or until he attains the age sixty-two ☐
- (d) eight years or until he attains the age of sixty-four ☐
- 314 Who can remove the Chairman or a member of the Union Public Service Commission ?
- (a) Lok Sabha ☐ (b) Rajya Sabha ☐
- (c) President ☐ (d) Prime Minister. ☐
- 315 Which of the following is the Compulsory Function of the Union Public Service Commission ?
- (a) It makes recruitments to all civil services and posts, under the Union Government, by written examinations, by interviews and promotions ☐
- (b) It advises the Government in all matters relating to methods of recruitment, principles to be followed in making appointments to civil services and posts and making promotions and transfers ☐
- (c) It frames and executes schemes of joint recruitment for any State Services, if the State Governments so requests ☐
- (d) All of these ☐
- 316 Which of the following Consultative Functions is performed by the Union Public Service Commission ?
- (a) It is consulted on all matters relating to the methods of recruitment to Civil Services ☐
- (b) It is consulted on all disciplinary matters affecting a person serving under the Government of India in a civil capacity
- (c) It is consulted on any claim for the award of a pension in respect of injuries sustained by a person while

serving under the Government of India in a civil capacity. ☐

(d) All of these ☐

317 Which of the following Miscellaneous Functions is performed by the Union Public Service Commission ?

(a) It prescribes standards and syllabi of competitive examinations for recruitment by the All India and Central Services ☐

(b) It makes direct recruitment of a large number of specialised posts. ☐

(c) Both of these ☐ (d) None of these ☐

10 THE STATES

318 Which of the following qualifications will make a person eligible for being nominated as a Governor ?

(a) He should be a citizen of India ☐

(b) He must have completed the age of thirty-five years ☐

(c) He should not hold any office of profit under the Central or State Government ☐

(d) All of these ☐

319. The Governor can be a member of

(a) either House of Parliament ☐

(b) a House of the State Legislature. ☐

(c) None of these ☐

(d) Both of these. ☐

320 Which of the following statements about the salary and allowances of the Governor is correct ?

(a) These are charged on the Consolidated Fund of the State ☐

(b) These cannot be reduced during his term of office ☐

(c) At present, he draws a salary of rupees eleven thousands per month ☐

(d) All of these ☐

321 Which of the following is true of the Executive Powers of the Governor ?

(a) He appoints the Chief Minister and the Council of Ministers ☐

(b) He appoints the Chairman and other members of the State Public Service Commission ☐

(c) All the executive actions of the State are taken in the name of the Governor ☐

(d) All of these ☐

- 322 Which of the following Financial Powers is *not* enjoyed by the Governor ?
- (a) He fixes the salary of the Chief Minister ☐
 - (b) No Money Bill can be introduced in the State Legislature without his prior sanction ☐
 - (c) Supplementary grants can be made only if the Governor recommends ☐
 - (d) The Consolidated Fund of the State can be used by the Governor for some urgent expenditure. However, it must be approved by State Legislature in due course of time ☐
- 323 Which of the following statements about the powers of the Governor is *correct* ?
- (a) He summons and prorogues the Legislature ☐
 - (b) He addresses the first session of the State Legislature. ☐
 - (c) A Bill becomes a law only after the Governor has given his assent ☐
 - (d) All of these ☐
- 324 Who can dismiss the Governor ?
- (a) President ☐ (b) Lok Sabha
 - (c) Rajya Sabha ☐ (d) Legislative Council
- 325 Which of the following immunities is available to the Governor ?
- (a) No criminal suit can be filed against the Governor. ☐
 - (b) No civil suit can be filed against the Governor ☐
 - (c) He cannot be arrested ☐
 - (d) All of these ☐
- 326 Which of the following qualifications is *necessary* for a person to be eligible for being a member of the State Legislative Assembly either through election or nomination ?
- (a) He must be a citizen of India and must not be less than twenty-five years of age ☐
 - (b) He must not hold an office of profit. ☐
 - (c) He must possess such additional qualifications as may be prescribed, by Parliament, by law ☐
 - (d) All of these ☐
- 327 Which of the following immunities is enjoyed by the members of the Legislature ?
- (a) They are not answerable before any court of law for anything said in the Legislature ☐
 - (b) When the session of Legislature is taking place, they cannot be arrested ☐
 - (c) Both of these ☐
 - (d) None of these ☐

- 328 The Legislative Assembly of a State *cannot* consist of more than
 (a) five hundred members ☐
 (b) five hundred and thirty two members ☐
 (c) five hundred and twenty members ☐
 (d) four hundred and fifty members ☐
- 329 The Legislative Assembly of a State *cannot* consist of less than
 (a) fifty members ☐ (b) sixty members ☐
 (c) seventy members ☐ (d) seventy-five members ☐
- 330 Which of the following *limitations* is imposed on the Powers of a State Legislature ?
 (a) During the proclamation of emergency, the Parliament can make laws on State subjects ☐
 (b) The State Government cannot raise loan outside its own territory ☐
 (c) Bills, which seek to impose restrictions on trade, commerce or intercourse with other States or within the State, cannot be introduced in the State Legislature without the prior consent of the President ☐
 (d) All of these ☐
- 331 Which of the following statements, about the State Legislative Council, is *incorrect* ?
 (a) There is a provision in the Constitution for the abolition of a State Legislative Council if the Legislative Assembly of that State passes a resolution to that effect ☐
 (b) At present, all the Indian States have State Legislative Councils ☐
 (c) At present, only seven States have State Legislative Councils ☐
 (d) It is a permanent body and is not subject to dissolution ☐
- 332 Which of the following statements, about the composition of the State Legislative Council, is *correct* ?
 (a) It cannot consist of less than forty members ☐
 (b) Its membership cannot exceed one-third of the total membership of the Legislative Assembly ☐
 (c) Both of these ☐ (d) None of these ☐
- 333 Which of the following qualifications should be possessed by a person seeking election to a State Legislative Council ?
 (a) He must be a citizen of India ☐
 (b) He must not be less than thirty years of age ☐
 (c) He must possess such additional qualifications as may be prescribed by the State Legislature ☐
 (d) All of these ☐

11. MISCELLANEOUS

- 334 Which of the following qualifications is necessary for a person to be appointed as a Judge of the High Court ?
- (a) He must be a citizen of India ☐
 - (b) He must have held a Judicial Office, in the territory of India, for at least ten years ☐
 - (c) He must have been an advocate of a High Court or two or more such courts in succession, for at least ten years ☐
 - (d) Either (a) & (b) or (a) & (c) ☐
- 335 Which of the following statements, about the Attorney-General of India, is *correct* ?
- (a) He must be qualified to be appointed a Judge of the Supreme Court ☐
 - (b) He has the right of audience in all courts in the territory of India ☐
 - (c) He gives advice to the Government of India on legal matters ☐
 - (d) All of these ☐
- 336 Which of the following statements, about the Comptroller and Auditor-General of India, is *correct* ?
- (a) He is appointed by the President of India ☐
 - (b) His duties and powers are related to the accounts of the Union and of the States ☐
 - (c) He can be removed from his office by a process similar to the one adopted for a judge of the Supreme Court ☐
 - (d) All of these ☐
- 337 Which of the following statements, about the Finance Commission, is *correct* ?
- (a) It is constituted by the President ☐
 - (b) It is constituted, normally, after every five years, but the President may constitute it even earlier than five years ☐
 - (c) It has a Chairman and four other members ☐
 - (d) All of these ☐
- 338 On which of the following matters, the Finance Commission has been authorised to make recommendations ?
- (a) The distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them and the allocation between the States of the respective shares of such proceeds ☐

- (b) The principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India ☐
- (c) Matters referred, to the Commission by the President in the interest of sound finance ☐
- (d) All of these. ☐
- 339 Which of the following statements, about the mode of amendment of the Constitution, is correct ?
- (a) Some Articles may be amended by a simple majority of Parliament. ☐
- (b) Some Articles may be amended by a two-thirds majority of both the Houses of Parliament. ☐
- (c) Some Articles require not only a two thirds majority of Parliament but also ratification by at least one half of the State Legislatures. ☐
- (d) All of these ☐

ANSWERS

- | | | | | |
|---------|----------|---------|----------|----------|
| 1. (c) | 2 (a) | 3 (c) | 4. (d) | 5. (b) |
| 6. (a) | 7. (b) | 8. (b) | 9 (c) | 10 (c) |
| 11. (a) | 12 (b) | 13 (a) | 14. (b) | 15. (c) |
| 16. (c) | 17. (d) | 18. (b) | 19. (d) | 20. (d) |
| 21. (b) | 22 (d) | 23. (b) | 24. (d) | 25. (c) |
| 26. (a) | 27 (a) | 28. (b) | 29. (a) | 30 (b) |
| 31. (c) | 32 (a) | 33 (c) | 34. (b) | 35. (c) |
| 36 (a) | 37. (c) | 38. (c) | 39 (d) | 40. (a) |
| 41. (d) | 42. (d) | 43. (a) | 44. (d) | 45. (b) |
| 46. (c) | 47. (d) | 48. (c) | 49 (c) | 50. (d) |
| 51. (a) | 52. (b) | 53. (d) | 54. (d) | 55. (d) |
| 56 (c) | 57. (d) | 58. (c) | 59. (a) | 60 (c) |
| 61. (c) | 62. (b) | 63. (b) | 64. (d) | 65 (a) |
| 66. (a) | 67 (a) | 68 (a) | 69 (d) | 70 (c) |
| 71. (b) | 72 (a) | 73. (d) | 74 (a) | 75. (c) |
| 76 (c) | 77 (a) | 78 (d) | 79. (d) | 80 (a) |
| 81. (c) | 82 (b) | 83 (c) | 84. (d) | 85. (a) |
| 86 (d) | 87 (a) | 88 (b) | 89 (b) | 90 (b) |
| 91. (c) | 92. (b) | 93. (d) | 94 (a) | 95. (c) |
| 96. (c) | 97. (b) | 98. (b) | 99 (b) | 100. (a) |
| 101 (a) | 102 (c) | 103 (c) | 104. (c) | 05 (d) |
| 106 (d) | 107. (b) | 108 (d) | 109. (c) | 10. (c) |

111. (b)	112. (b)	113. (b)	114 (b)	115. (b)
116. (d)	117. (b)	118. (b)	119 (c)	120 (a)
121. (b)	122. (b)	123 (d)	124 (b)	125. (b)
126. (b)	127. (c)	128. (d)	129 (d)	130 (a)
131. (b)	132 (d)	133. (d)	134. (d)	135. (c)
136 (d)	137 (a)	138. (a)	139 (d)	140. (c)
141. (b)	142 (b)	143 (c)	144 (a)	145. (a)
146 (d)	147 (c)	148 (a)	149 (a)	150. (c)
151. (a)	152. (b)	153 (b)	154 (a)	155 (c)
156. (d)	157 (d)	158. (d)	159. (d)	160 (c)
161. (b)	162. (a)	163. (b)	164 (c)	165 (a)
166 (c)	167. (c)	168 (a)	169. (d)	170. (a)
171. (c)	172 (c)	173. (b)	174 (b)	175 (b)
176. (b)	177. (d)	178. (b)	179 (a)	180. (a)
181 (d)	182. (a)	183. (a)	184. (b)	185. (b)
186. (c)	187 (c)	188 (a)	189. (b)	190. (c)
191 (c)	192 (d)	193 (b)	194 (a)	195. (b)
196. (b)	197 (b)	198 (b)	199 (b)	200. (c)
201. (b)	202 (b)	203 (d)	204 (a)	205. (b)
206 (d)	207. (a)	208 (a)	209 (d)	210. (a)
211. (c)	212 (c)	213. (b)	214. (d)	215. (a)
216 (a)	217 (b)	218. (c)	219. (a)	220. (b)
221. (b)	222. (b)	223 (b)	224 (a)	225. (b)
226. (a)	227. (d)	228 (b)	229 (b)	230. (a)
231 (c)	232. (d)	233. (a)	234. (b)	235 (a)
236. (a)	237. (d)	238 (b)	239 (d)	240. (d)
241. (d)	242. (b)	243 (c)	244 (b)	245. (d)
246. (b)	247. (a)	248. (d)	249 (d)	250 (b)
251 (c)	252. (c)	253. (c)	254. (b)	255. (c)
256. (c)	257. (d)	258 (d)	259. (d)	260 (d)
261. (b)	262. (a)	263 (d)	264. (a)	265 (b)
266. (c)	267 (c)	268 (b)	269. (b)	270 (b)
271. (d)	272. (b)	273 (c)	274. (a)	275. (c)
276. (d)	277 (a)	278 (d)	279. (d)	280. (c)
281 (c)	282. (d)	283 (d)	284 (d)	285. (b)
286. (d)	287 (b)	288 (c)	289 (d)	290 (d)
291 (c)	292 (d)	293 (b)	294 (d)	295 (c)
296. (d)	297 (a)	298 (d)	299 (b)	300 (d)
301. (b)	302 (c)	303 (d)	304 (d)	305 (a)
306 (d)	307. (d)	308. (d)	309 (b)	310. (b)

311 (d)	312 (b)	313 (b)	314 (c)	315. (d)
316 (d)	317 (c)	318 (d)	319. (c)	320 (d)
321 (d)	322. (a)	323 (d)	324 (a)	325 (d)
326 (d)	327. (c)	328. (a)	329 (b)	330 (d)
331 (b)	332 (c)	333 (d)	334 (d)	335 (d)
336. (d)	337 (d)	338 (d)	339 (d)	

EXPLANATORY NOTES

Q 1. *Number of seats* allotted to a State is approximately proportional to its population as per 1971 census

Q 2. *The Cabinet Mission Plan* stipulated that the Constituent Assembly was to have its members elected by the Provincial Assemblies

Q 3 *The Rajya Sabha* may recommend amendments to money bills but the Lok Sabha has power to reject such amendments

Q 4 *The Power of the Supreme Court* and of the High Courts regarding Central and State laws had been drastically reduced by the 42nd Amendment Act. The powers were restored by the 43rd amendment.

Q 5 *The Concurrent List* comprises 47 items on which Union as well as State Legislatures can make laws

Q. 7. *Parliamentary democracy* is a form of democracy in which legislature controls the executive

Q 9. *Sindhi* is the only language added to the Eighth Schedule afterwards.

Q 10. *Secularism* is mentioned only in the Preamble of the Constitution. However, communal harmony is mentioned as a Fundamental Duty

Q 11 *In USA, Egypt and USSR*, Parliamentary system of democracy does not prevail. In Britain, there is constitutional monarchy but Parliamentary system prevails

Q 14 *Secularism* means treating alike all communities inhabiting a country. In it all citizens have equal rights irrespective of caste, creed, sex, religion or race

Q 15 *Questions of disqualification* of a Member of Parliament are referred to the Election Commission which actually decides the matter. But it is President, who passes the formal order according to the opinion of the Election Commission.

Q 19. *Increase in agricultural production* and uplift of Harijans are, no doubt, important goals of Panchayati Raj adminis-

tration, but the original and primary object was to involve the people in the Community Development Programmes

Q. 23 *Nagaland* has only a tribal council

Q. 27 *Reservations for Scheduled Castes and Scheduled Tribes* have since been extended to the 2th Jan, 2000 by the 62nd Amendment Bill

Q. 28 *The Finance Commission* is appointed under article 280 of the Constitution to make recommendations to the President as to the distribution between the Union and the States of the net proceeds of taxes which are divisible between the Union and States

Q. 34 A *Bill* is a Money bill if it relates to the imposition of taxes or borrowings or appropriations out of the Consolidated Fund of India.

Q. 35 *The Indian Constitution* was adopted and enacted by the Constituent Assembly on Nov 26, 1949.

Q. 36 In the *Golaknath case*, the Supreme Court held that the amending power of the Parliament was limited. In the *Kesavananda Bharati case*, the Supreme Court held that the amending power of the Parliament was not limited but was subject to the condition that the basic structure of the Constitution should not be altered. In *Minerva Mills case* also the Supreme Court upheld the same view. In the *Keshvanand Bharti case* the question of amending power was not involved

Q. 37. *Guwahati High Court* has jurisdiction over all the seven North Eastern States

Q. 38. *Panchayati Raj* was inaugurated at Nagaur village in Rajasthan on Oct 2, 1959

Q. 41 *Rajya Sabha* is a permanent body, one-third of the members retiring after every two years

Q. 50 *Welfare State* ideology emphasises the role of the state to attend to the bare minimum needs of the common man, through social welfare measures the benefits whereof can be enjoyed by all the citizen in the state

Q. 51 Two *Anglo Indian* members are nominated by the President to the Lok Sabha to represent that community

Q. 62 *Vice President* is the *ex-officio* Chairman of Rajya Sabha, although he cannot become its member

Q. 63 *Indian provinces* are called States. In the Political Science sense, a State is a sovereign entity. So only India is a State

Q. 64. *Habeas Corpus* is a writ provided in the Constitution, which gives facilities to the prisoners for obtaining either speedy trial or release on bail.

Q. 66 *Panchayati Raj* institutions have negligible voluntary contributions. The local taxes can be collected by Panchayati Raj, but it is generally not done. Sales Tax is collected by the State Governments. So Panchayati Raj institutions mainly depend on Government grants.

Q. 86. For appointment as leader of the opposition, the concerned party should have a minimum strength of 10% in the House.

Q. 102. *Federation* is a form of government in which regions called provinces, states, etc., enjoy autonomy in certain spheres and are not at the mercy of the Centre

Q. 108. *Attorney General* is appointed by the President under Article 76 of the Constitution. He is the highest legal adviser to the Government of India and is consulted in all important cases

Q. 110. Unlike the House of Lords, Rajya Sabha has no judicial powers

Q. 111. 44th Amendment has, again, given primacy to the Fundamental Rights.

Q. 112. The Anti-defection Act is not applicable in case of vertical split of a party, when not less than one-third of the total members form a separate party

Q. 113. The Charged expenditure relates to inevitable expenditure, which is not subject to the vote of the Lok Sabha.

Q. 116. All-India Services can be created under Article 312 of the Constitution, if the Rajya Sabha declares by resolution supported by not less than two thirds of the members present and voting that it is necessary or expedient to create an All India Service common to the Union and the States. Parliament may, by law, create such a service and regulate the recruitment and conditions of service of persons appointed to such services

Q. 126. Legislative Council of a State is a permanent body, and one third of its members retire after every second year.

Q. 129. The Directive principles of State policy provide for

- (i) adequate means of livelihood for all citizen; and
- (ii) fair distribution of wealth and material resources etc.

Q. 130. The President nominates 2 Anglo-Indian members to Lok Sabha.

Q. 135 *Fundamental Duties* in the constitution of India lay down that it shall be the duty of every citizen of India to uphold and protect the sovereignty, unity and integrity of India.

Q. 140. 'Right to Property' was deleted from the Fundamental Rights by the 44th Amendment. It is now only a legal right and not a Fundamental 'Right'.

Q 147 *The total number of members of a Legislative Council of a State should not exceed one third of the total members in the Legislative Assembly of that State subject to a minimum of 40 members.*

Q 149. *Union List consists of 97 subjects, over which the Union Parliament has exclusive power of legislation such as Defence, Foreign Affairs, Banking, Currency etc*

Q 154. *A candidate for the membership of Rajya Sabha must be (i) a citizen of India, and (ii) not less than 30 years of age. If he were born on August 15, 1947, he is eligible to become Member of Rajya Sabha after the 15th August 1977.*

Q. 191. *At present only the States of Bihar, U.P., Tamil Nadu, Maharashtra, Karnataka and A.P. have second House*

Q 205 *Under Art 280 of the Constitution of India provision has been made for the Constitution of a Finance Commission within 2 years of the commencement of the Constitution and thereafter at the expiration of every fifth years. It consists of a chairman and 4 other members*

Q 218. *In the case of federal subjects such as procedure for the amendment of Constitution, the Bill must be ratified by not less than 1/2 of the Legislatures of the States before being presented to the President for assent.*

Q 227 *The President nominates 12 members to the Rajya Sabha for their special knowledge of art, literature, science and social services.*

Q 245. *The relevant provision is contained in Article 5, Part II of the Constitution.*

Q 246. *In most of the federal polities, dual citizenship is provided.*

Q. 247. *Tendencies of regionalism were quite strong when India attained independence. In order to check these tendencies and to encourage the spirit of nationalism, single citizenship was provided. All the Indian people are citizens of India and not of the State in which they were born*

Q. 248. *Two more qualifications must be satisfied for acquiring Indian citizenship by naturalisation. These two qualifications are given below :*

(i) *The person concerned must have a workable knowledge of any Indian language.*

(ii) *The person concerned should either serve or reside in India for a minimum of twelve months immediately preceding the date on which he applies for Indian citizenship*

The Citizenship Act of 1955 deals with the acquiring of Indian citizenship by naturalisation

Q 249 The following grounds are also valid for depriving a person of his Indian citizenship

(i) If a citizen, against whom proceedings are pending, shows disloyalty or contempt to the Constitution of India

(ii) If a citizen has been residing for seven consecutive years, outside India and has shown no intention to continue to be an Indian citizen

(iii) If a citizen has been sentenced to more than two years' imprisonment, within five years of registration or naturalisation, in any country

Before depriving a person of his Indian citizenship he will be given due notice

Q 250 Part III of the Constitution of India deals with Fundamental Rights

Q 251 Remaining Fundamental Rights are given below

(i) Right to Freedom of Religion

(ii) Cultural and Educational Rights.

(iii) Right to Constitutional remedies

Q 252 The following things are also meant by the Right to Equality.

(i) All the persons will be equally protected, by law, within the territory of India

(ii) All the citizens will have access to shops, public restaurants, hotels and places of public entertainment

(iii) All the citizens will be allowed the use of wells, tanks, bathing ghats, roads and places of public interest maintained wholly or partly out of State funds or dedicated to the use of general public

(iv) No title shall be conferred by the State. However, military or academic distinction can be given

(v) No Indian citizen is allowed to accept any title from any foreign State

(vi) Every adult citizen, be a male or female, has a right to vote.

(vii) Untouchability is abolished.

(viii) The State may reserve certain seats in public services for those backward classes which do not have sufficient representation for them.

Q 254. Some more rights included in the Right to Freedom are as follows :

- (i) Right to move freely throughout the territory of India.
- (ii) Right to reside and settle in any part of the territory of India
- (iii) Right to carry on any occupation, trade or business

Q 255 The following are also included in the Right to Freedom of Religion

- (i) Sikhs are allowed to wear 'Kirkpans' because this practice is a part of Sikh religion
- (ii) Every religious denomination or its section has a right to manage its own affairs in matters of religion
- (iii) Every religious denomination or its section has a right to own and acquire movable and immovable property. They also have a right to administer such property in accordance with law.
- (iv) Religious instruction will not be provided in any educational institution wholly maintained out of State funds.

Q 258 *The Writ of Mandamus* can be issued by Supreme Court, High Courts or such other courts as are authorised by Parliament. This writ cannot be claimed from the court as a matter of right. The issue of this writ depends on the discretion of the court

Q 259 If a person claims office in an unauthorised manner, the court asks such a person to furnish the authority on the basis of which he is making the claim.

Q 260 *Writ of Prohibition* is known as 'Stay Order'. This writ can be issued by a High Court to a

- (i) lower court.
- (ii) non-judicial public institutions
- (iii) body which exercises semi-judicial or quasi-judicial functions

When this writ is issued to a lower court, the proceedings of the lower court immediately come to an end.

Q 263. If a person is a Minister either in the Central Government or a State Government, he is not deemed to hold an office of profit for the purpose of contesting the Presidential election.

Q 265. Term of office of the President is five years from the date on which he enters upon his office.

Q 266 If a member of either House of Parliament or of a House of the Legislature of any State be elected President, he shall

be deemed to have vacated his seat in that House on the date on which he enters upon his office as President.

Q. 267 The salary and allowances of the President are charged on the Consolidated Fund of India. These are not subject to the vote of the Parliament.

He is entitled, without payment of rent, the use of his official residences

After retirement, he has the benefit of free medical aid and other facilities which enable him to lead a dignified and comfortable life.

Q. 271. President can grant pardons, reprieves, respites or remissions of punishment and can remit or commute the sentence of any person convicted by a court of law. He is not answerable to any court for the exercise and performance of the powers and duties of his office.

Q. 272 Article 57, Part V of the Constitution of India deals with the provision of eligibility for re-election.

Q. 275 The person elected to fill up the vacancy will be entitled to hold office for the full term of five years from the date on which he enters upon his office as President.

Q. 276. The Union Legislature has been empowered to legislate on the residuary subjects.

Q. 277 Resolution for the purpose of removing the Vice-President can be moved only after giving fourteen days' notice of the intention to move the resolution.

Q. 279 When drawing up the list of Ministers, the Prime Minister also ensures that

- (i) the Ministry, taken together, is capable of functioning as a homogeneous unit,
- (ii) women are given adequate representation, and
- (iii) financial, commercial, labour and agricultural interests are given adequate representation

It is for the Prime Minister to decide as to who will be a Cabinet Minister, Minister of State or a Deputy Minister. The Prime Minister prepares a list of the members to be included in the Council of Ministers and submits it to the President. The appointments are, accordingly, made by the President

Q. 282 The Cabinet is an informal body. It consists of very senior Ministers. The decisions of the Cabinet are binding on the Council of Ministers as a whole.

Q. 283 When there are differences between the Prime Minister and a particular Minister, it is the Minister concerned who quits the Cabinet and not the Prime Minister

When Prime Minister resigns on political grounds, it means the resignation of the Council of Ministers as a whole

Q. 284 All the executive functions of the Union are performed by the Cabinet. It is for the Cabinet to determine the jurisdiction of the administrative departments. The Prime Minister co-ordinates the functioning of various departments. Ministers lay down the policies. These policies are carried out by the bureaucracy. However, the entire responsibility is that of the Ministers.

The Cabinet has the responsibility of laying down the financial and economic policy of the country. The Finance Minister is entrusted with the responsibility of presenting the Union Budget. Bills are mostly initiated and piloted by the Ministers themselves. The Consolidated Fund of India is operated on the advice of the Cabinet.

The Council of Ministers leads in matter of legislation in Parliament. In fact, the Ministry is like a sub-committee of Parliament. Almost all the bills are introduced in Parliament, by the Ministers. Since the Ministry enjoys a majority support in the House of People, therefore, these bills are invariably passed without any difficulty.

Q. 285 If the Lok Sabha passes a vote of no-confidence against the Council of Ministers, the Ministry shall have to quit the office. It can remain in power only so long as it enjoys the confidence of Lok Sabha.

Q. 288 Resolution, for removal of the Speaker of Lok Sabha, should be passed by a majority of all the members of the House. However, such a resolution can be moved only after fourteen days' notice has been given of the intention to move the resolution.

Q. 290 Following are some of the more powers enjoyed by Rajya Sabha.

(i) In order to continue the operation of the Proclamation of Emergency issued by the President, the approval and support of the House of the People is not enough. The approval and support of the Council of States is also required.

(ii) During question-hour, the members of Rajya Sabha can ask questions from Ministers.

(iii) Members of Rajya Sabha can move adjournment motions to discuss important matters of State.

(iv) An ordinary bill may originate in the Rajya Sabha.

(v) It can delay a money bill by fourteen days. However, Rajya Sabha has practically no financial powers.

Q. 295 The Speaker of the Lok Sabha signs a certificate to the effect that a particular Bill is a Money Bill whenever it is sent either to the President or to the Rajya Sabha.

Q. 296 Every Bill has to be accompanied by a statement describing the aims and objects of the Bill.

A Bill is deemed to have been passed by Parliament only after it has been agreed to by both the Houses of Parliament. For an Ordinary Bill to become Law, the approval of both the Houses of Parliament is necessary.

In case of a deadlock between the two Houses on a Bill, the President convenes a Joint-sitting of both the Houses of Parliament, where the Speaker of the Lok Sabha presides.

Q. 297 The First Reading of the Bill is a simple process. The member, who introduces the Bill reads out the title of the Bill. If the introduction of the Bill is opposed, the mover of the Bill makes a brief speech. He explains the aims and objectives of the Bill. At this stage, the Bill is put to vote. If the majority votes in favour of the Bill, it is taken as moved.

Q. 298 When the Bill has been passed by both the Houses of Parliament, it is sent to the President for his assent. If the Bill is an Ordinary Bill he may return the Bill to the Houses with a request for reconsideration. However, if the Bill is again passed, the President cannot without his assent.

Q. 299 Chief Justice of India can decide that the Supreme Court will sit at any other place, besides Delhi, in India. But the consent of the President will be necessary.

Q. 301 The Chief Justice of India is appointed by the President in consultation with those Judges of the Supreme Court and the State High Courts when he may think fit to consult.

The Judges of the Supreme Court are appointed by the President in consultation with the Chief Justice of India.

Q. 302. 'Ad hoc Judges' of the Supreme Court are appointed by the Chief Justice after obtaining the consent of the President.

When a High Court Judge is appointed as an Ad hoc Judge, the Chief Justice of that High Court has to be consulted.

Ad hoc Judges are entitled to the salary, allowances and other privileges which a Judge of the Supreme Court enjoys.

Q. 304 The Judges are provided with free furnished houses

After their retirement, the Judges of the Supreme Court are not allowed to plead or act in any Court or before any authority within India

Since the salaries of the Supreme Court Judges are charged on the Consolidated Fund of India, Parliament has no right to vote on them. It has been done to ensure an independent and impartial judiciary

Q. 308 The Supreme Court is the highest Court of appeal in India. Its decisions and judgements are final. The appellate jurisdiction of the Supreme Court extends to civil, criminal and constitutional matters

Q. 311 If any Act passed by the Union or State Legislature is found to be contrary to the spirit of the Constitution, the Supreme Court declares that Act '*ultra vires*' or null and void. This function of the Supreme Court is known as 'Judicial Review'. The Supreme Court does not take any initiative in bringing an Act of Parliament or of a State Legislature to decide whether it is in keeping with the provisions of the Constitution or not. The court acts only when an appeal is made to it.

Q. 312 Union Public Service Commission is a statutory body

Q. 314 Chairman or a member of the Union Public Service Commission can be removed on the grounds of misbehaviour

The President removes the Chairman or a member of the Union Public Service Commission only after he has received a report from the Supreme Court to which a reference is made for enquiry

In the following cases also, the President may remove the Chairman or a member of the Union Public Service Commission

- (i) When the person concerned is adjudged an insolvent
- (ii) When the person concerned engages, during his term of office, in any paid employment outside the duties pertaining to his office
- (iii) When the person concerned is unfit to continue in office by reason of infirmity of mind or body

Q. 318 The Governor of a State is appointed by the President and holds office during his pleasure. Normally, the Governor

is appointed for a term of five years. But he can be removed by the President at any time.

Q. 319. If a member of Parliament or a State Legislature is appointed as Governor, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as Governor.

Q. 320. The Governor is allowed the use of a free furnished official residence. He also enjoys such other privileges as may be granted to him from time to time by the Parliament.

Q. 325. The Governor is not answerable before any court of law in the discharge of his official functions and duties. However, a suit may be filed against the Government of State as such.

Q. 326. A person cannot be elected as a member of the Legislative Assembly if :

(i) he has been declared insolvent ;

(ii) he is of an insane frame of mind ;

(iii) he has any other disqualification as laid down by the Parliament.